SELECTIONS

FROM THE

RECORDS OF THE GOVERNMENT OF INDIA,

HOME DEPARTMENT.

No. CCCXLII.

HOME DEPARTMENT SERIAL No. 20.

PAPERS

RELATING TO THE

DECCAN AGRICULTURISTS' RELIEF ACT

DURING THE YEARS

1875-94.

VOL. II.

Published by Authority.

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Papers relating to the Deccan Agriculturists' Relief Act.

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PAPERS

RELATING TO THE

DECCAN AGRICULTURISTS' RELIEF ACT

DURING THE YEARS

1875–94.

From C. G. W. MACPHERSON, Esq., C.I.E., Under Secretary to the Government of Bombay, Judicial Department, to the Secretary to the Government of India,—No. 6624, dated Bombay Castle, the 22nd September 1885. No. 1.

Adverting to the Despatch* of Her Majesty's Secretary of State for India to the address of this Government, No. 4 (Judicial), dated the 6th November 1884, I am directed to forward herewith a draft Bill to amend the Deccan Agriculturists' Relief Act, 1879, and to request that it or some Bill making like provisions may be introduced at an early date into the Council of His Excellency the Viceroy and Governor General for making Laws and Regulations. I am to explain that the Bill has been prepared by this Government in view to showing more clearly the amendments, which His Excellency in Council considers desirable than would a letter alone.

2. The Bill, I am directed to observe, has been drafted with the view of giving effect to the opinions of the Secretary of State expressed in the Despatch above referred to, and of remedying some minor defects which have been found in the working of the Act. Standing crops have been declared not to be immoveable property, in accordance with paragraph 12 of the Despatch, and effect has been given as far as possible to the views expressed in paragraph 14 regarding registration. It has been provided that instruments which under the ordinary law are compulsorily registrable shall be registered in the ordinary registry offices; but the registering officers will be required to comply with those provisions of Chapter VIII of the Relief Act which are intended for the special protection of agriculturists. I am, however, to say that, if it is thought preferable, provision can be made for this change by amending the Registration Act instead of by amending the Deccan Agriculturists' Relief Act.

3. It may be a question whether the registration of ordinary money bonds is necessary, but in deference to the opinion expressed by the Secretary of State, the existing provisions of the law in this respect have not been interfered with. The Government of India may perhaps think that, instead of copying such documents in full, a short note of their contents made in a tabular statement would suffice. If so, this Government, I am to say, would be quite willing to see the Bill so altered. Leases for a period not exceeding one year might be treated in the same manner; and while on this subject, I am to observe that the term "lease" is not defined in the Act (as it is in the Registration Act) as including a "kabuliyat." The insertion of such a definition would seem desirable, for in section 56 the term must be taken to mean a kabuliyat or undertaking to cultivate or occupy rather than a lease in its ordinary sense. A definition has accordingly been introduced in the Bill.

4. It will be seen that the provision for giving copies of all documents has been omitted in the draft Bill. The reasons for this omission are the great amount of clerical labour involved, and the indifference of the parties, as shown by the fact that they will not attend to take the copies. It has been reported that an enormous number of copies are now lying in the registration offices, and that it is impossible to induce the parties to come and take them away.

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* Printed on pages 507 to 509 of Selection Vol. I.

5. The suggestion for the assistance of judgment-creditors, contained in paragraph 13 of the Secretary of State's Despatch, has not been adopted for the following reasons:—

The difficulty in connection with the management by the Collector of the ryot's surplus land in the interests of his creditor is that in the vast majority of cases a ryot, when he is brought to the pass contemplated, has no surplus land to be managed. The land left in his possession is found to be not more than enough to support himself and his family, and the provision of the law remains a dead letter. Exactly a similar case would occur in connection with the Secretary of State's proposal that the Collector should deal with the land of as judgment-debtor in the same way as he deals with alienated *watan* property. If the land left with the ryot is, after paying the assessment, only sufficient for his and his family's support, it is obvious that there is no margin from which he can pay the difference between the assessment and the "full rent." If the land is more than sufficient for his support, then the existing provision of the law can be applied. Alienated *watan* property is generally in the possession of a well-to-do man, and in any case Government have no motive for dealing tenderly with its new possessor, but quite the reverse; but given a ryot in the position of a judgment-debtor, and given that enough land must be left with him for his and his family's support, the only room for the application of the Secretary of State's proposal is in the extremely few cases to which the provision in the Act regarding the management by the Collector of a judgment-debtor's land can already be applied.

The suggestion in paragraph 13 of the Despatch is really the same thing as a proposal for payment by instalments, which of course should be fixed on an estimate of the income of the debtor from his estate. It is easy to arrange payment by instalments when the debt is moderate. But the case to be dealt with is that of the debt being too large to be paid from the income in any reasonable time. Such a case the suggestion in paragraph 13 does not meet.

It appears, therefore, difficult to give practical effect to the Secretary of State's suggestion; and even were the difficulty less, it seems to His Excellency in Council very questionable whether it would be politic to compel the Collector to rack-rent the cultivator in the interests of the creditor and in the name of relief.

6. Section 5 has been introduced on the recommendation of the Special Judge for the following reasons:—

Section 7 of the Act merely makes the examination of the defendant compulsory in all suits under Chapter II, which includes even non-agriculturist suits; but sections 12-14 apply to many suits which affect agriculturists only and do not fall under Chapter II, and it is even more important that the defendant should be examined as a witness in such suits than in many of the suits to which Chapter II applies. The defendant is generally the debtor, but in redemption-suits it is the plaintiff who is the debtor, and it is his examination that is most necessary. It is, moreover, almost impossible for the Courts to investigate the past history of an old debt in a satisfactory manner without examining both creditor and debtor as witnesses. Again, unless a provision against *ex-parte* decrees be inserted in Chapter III, it will not be possible to guard against *ex-parte* decrees in other districts to which the Act may hereafter be extended without also extending the other provisions of Chapter II at the same time.

7. The reasons for the provisions contained in section 9 are explained in the following extract from a letter from the Special Judge:—

The words "not being merely a surety for the principal debtor" were introduced by Act XXIII of 1881 in order to prevent the anomaly of the agriculturist surety of a non-agriculturist principal being held liable for a debt, after such debt has become time barred as against his principal; but the amendment has itself produced a converse anomaly, *viz.*, that when principal and surety are both of them agriculturists, the extended period of limitation applies to the principal and not to the surety. As soon as the recent decisions to this effect become generally known, the result will be that even the principal debtor will lose the supposed benefit of the extended period of limitation, because few creditors will care to wait for the extended period when such waiting will deprive them of their remedy against the surety. I may mention here that the expression *suits under this Act* at the beginning of section 72 is objectionable, because there are no suits properly speaking, under the Act. I think the words should be *suits of the description mentioned is section 3, clause* (w). This would include all suits on bonds, khatas, written acknowledgments, and the like, and would exclude suits for rent, suits for damages, etc., to which there is no necessity of applying a special law of limitation.

8. In conclusion, I am to invite attention to section 3 of the draft Bill, from which it will be seen that power has been taken to extend the provisions of the Act to other districts.

DRAFT.

A Bill to amend the Deccan Agriculturists' Relief Act, 1879. No. 2.

Whereas it is expedient to amend, in manner hereinafter appearing, the Deccan Agriculturists' Relief Act, 1879: It is hereby enacted as follows:—

Short title. XVII of 1879. XXIII of 1881. XXII of 1882.

1. (*1*) This Act may be called the Deccan Agriculturists' Relief Act, 1885; and it and the Deccan Agriculturists' Relief Act, 1879, and the Deccan Agriculturists Relief Act, 1881, and the Deccan Agriculturists' Relief Act, 1882, may be cited collectively as the Deccan Agriculturists' Relief Acts, 1879 to 1885.

Commencement.

(2) This Act shall come into force on the

"Definition of section." XVII of 1879. XXIII of 1881. XXII of 1882.

2. In this Act, unless there is something repugnant in the subject or context, "section" means a section of the Deccan Agriculturists' Relief Act, 1879, as amended by the Deccan Agriculturists' Relief Act, 1881, and the Deccan Agriculturists' Relief Act, 1882.

Addition to section 1.

3. To section 1 the following paragraph shall be added (namely):—

But the Local Government may, with the previous consent of the Governor General in Council, extend all or any of the provisions of the rest of the Act to any other district or districts in the Bombay Presidency.

4. To section 2 the following paragraph shall be added (namely):—

(3) "Lease" includes a counterpart, kabuliyat, an undertaking to cultivate or occupy, and an agreement to lease.

Amendment of section 12.

5. In section 12, after the word "disputed," the following words shall be inserted, namely:—

Examine both the plaintiff and the defendant as witnesses unless, for reasons to be recorded by it in writing, it deems it unnecessary so to do; and

Addition to section 22.

6. To section 22 the following shall be added, namely:—

Explanation.—Standing crops shall be deemed not to be immoveable property for the purposes of this section.

Amendment of section 56.

7. In section 56, after the words "no instrument," the following words shall be inserted, (namely):—

Other than documents mentioned in section 17 of the Indian Registration Act, 1877.

And to the said section the following shall be added (namely):—

Provided also that any excepted document as abovementioned, if executed by any agriculturist, shall when registered under the provisions of the Indian Registration Act, 1877, be not only registered, but also written by or under the superintendence of the registering officer, who shall follow in respect thereof the procedure prescribed for village registrars by sections 57, 58, and 59.

Amendment of section 58.

8. Instead of the second paragraph of section 58, the following shall be substituted (namely):—

As soon as all the intending executants have executed any instrument before a village registrar, the same shall be entered in his register, and the village registrar shall then deliver the original instrument to the party entitled to the custody of the same.

And in the third paragraph of the same section, the words "and each such copy" are repealed; and at the end of the same section the following shall be added (namely):—

Subject to the previous payment of the fees payable in that behalf, copies of entries in the said register shall, on due application, be given by the village registrar to any of the parties to the instrument applying for such copies or to his agent or representative.

All copies given under this section shall be signed by the village registrar, and shall be admissible for the purpose of proving the contents of the original documents.

Amendment of section 72.

9. In section 72, for the words "under this Act" where they first occur, the words "of the description mentioned in section 3, clause (*w*)" shall be substituted; and in the same

section the words "not being merely a surety for the principal debtor" are repealed; and for the proviso to the same section, the following shall be substituted (namely):—

Provided that nothing in this section shall—

(c) apply to a suit for the recovery of money from a person who is a surety merely of the principal debtor, if such principal debtor was not, at the time when the cause of action arose, an agriculturist;

(d) revive the right to bring any suit which would have been barred by limitation if it had been instituted immediately before this Act comes into force.

No. 3. From A. MACKENZIE, Esq., C.S., Secretary to the Government of India, to the Chief Secretary to the Government of Bombay,—No. 334, dated Calcutta, the 2nd March 1886.

I am directed to acknowledge the receipt of your letter No. 6624, dated the 22nd September 1885, forwarding a draft Bill to amend the Deccan Agriculturists' Relief Act.* This Bill has been prepared in order to give effect to certain suggestions made by Her Majesty's Secretary of State in the Despatch marginally noted,† and at the same time to remedy some minor defects which have been found to exist in working the Act.

* Act XVII of 1879 as amended by Acts XXIII of 1881 and XXII of 1882.

† From Secretary of State to Bombay Government, No. 4 (Judicial), dated 6th November 1884.

2. In reply I am to say that the provisions embodied in the draft Bill appear to the Government of India to be generally unobjectionable except in so far as they contemplate, by an amendment of the third paragraph of section 58 of the Act, the levy of fees for the grant of copies of entries in the register kept by Village Registrars under paragraph 1 of that section. The Honourable the President in Council would prefer that this provision should be omitted inasmuch as the levy of fees scarcely appears to be a matter which can be appropriately dealt with in an Act of this nature, and it may possibly be open to doubt whether on general grounds it is desirable to impose fees in such cases.

3. In paragraph 14 of his Despatch, dated the 6th November 1884, Her Majesty's Secretary of State, while inclined to doubt the desirability of rescinding the provision which makes the registration of money bonds compulsory and expressing an opinion that the registration of the more important documents which affect immoveable property should be carried out in the regular registration offices, added "it ought to be possible to provide a registrar in each village or small group of adjacent villages, sufficiently reliable to be entrusted with the registration of the less important money bonds, and thus to prevent the hardship of the registration of petty transactions requiring a long and troublesome journey." As regards this point, the Government of India sees no objection to the amendment proposed by the Bombay Government in section 56 of the Act; but, in view of the fact that the registration machinery in the Bombay Presidency does not, it is believed, fulfil at present the condition of providing a registrar for each "small group of adjacent villages," in the manner contemplated by the Secretary of State, it seems very desirable that every effort should be made to diminish rather than to increase the size of the existing registration circles.

4. Subject to the foregoing remarks, the proposals of the Bombay Government for the amendment of the Deccan Agriculturists' Relief Act are accepted by the Government of India. I am, however, to add that it has been found convenient to recast the form of the draft Bill submitted with your letter under reply, and a copy of the draft as recast is forwarded herewith for the consideration of His Excellency the Governor in Council. It will be observed that in section 9 of the draft an attempt has been made to bring into prominence the distinction between registration by Village Registrars under the Relief Act and registration under the Indian Registration Act, 1877.

5. In conclusion, I am to enquire, with reference to the last paragraph of your letter under reply, to what extent the Bombay Government contemplates recommending the extension of the Act beyond the particular districts in which it is at present in force.

No. 4.

A Bill to amend the Deccan Agriculturists' Relief Acts, 1879 to 1882.

Whereas it is expedient to amend in manner hereinafter appearing the Deccan Agriculturists' Relief Acts, 1879 to 1882; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Deccan Agriculturists' Relief Act, 1886; and it and the Deccan Agriculturists' Relief Acts, 1879 to 1882, may be cited collectively as the Deccan Agriculturists' Relief Acts, 1879 to 1886.

(*2*) This Act shall come into force on the first day of July 1886.

Definition. 2. In this Act, unless there is something repugnant in the subject or context,—

"section" means a section, and "chapter" a chapter, of the Deccan Agriculturists' Relief Act, 1879, as amended by the Deccan Agriculturists' Relief Act, 1881, and the Deccan Agriculturists' Relief Act, 1882.

Addition to Section 1. 3. To section 1 the following shall be added after the word "Ahmednagar," namely:—

"but may, from time to time as occasion requires, be extended wholly or in part by the Local Government, with the previous sanction of the Governor General in Council, to any other district or districts in the Presidency of Bombay."

Addition to Section 2. 4. To section 2 the following shall be added, namely:—

"*5th.*—'Lease' shall be deemed to include a counterpart, kabuliyat, an undertaking to cultivate or occupy and an agreement to lease."

Amendment of Section 12. 5. In section 12, for the words "the Court shall, if the amount of the creditor's claim is disputed, enquire" the following shall be substituted, namely:—

"the Court, if the amount of the creditor's claim is disputed, shall examine both the plaintiff and the defendant as witnesses unless, for reasons to be recorded by it in writing, it deems it unnecessary so to do, and shall enquire."

Amendment of section 22. 6. In section 22, for the words "No agriculturists' immoveable property shall be attached or sold" the following shall be substituted, namely:—

"Immoveable property belonging to an agriculturist, other than his standing crops, shall not be attached or sold."

Addition to proviso to section 56. 7. To the proviso to section 56 the following shall be added, namely:—

"or to any instrument required by section 17 of the Indian Registration Act, 1877, to be registered under that Act."

Amendment of, and addition to, section 58. 8. (*1*) For the second paragraph of section 58 the following shall be substituted, namely:—

"As soon as all the intending executants have executed any instrument under section 57, the Village-Registrar shall register it by entering in his register an abstract of it in such manner and with such particulars as the Inspector General of Registration may, from time to time, with the previous sanction of the Local Government, prescribe, and shall then deliver the instrument to the party entitled to the custody of it."

(*2*) In the third paragraph of the same section, the words "and each such copy" are repealed.

(*3*) After the same section the following shall be added, namely:—

"A certified copy of any entry in the register shall be granted by the Village Registrar, free of charge, on the application of any party to the instrument to which the entry relates, or of his agent or representative, and the copy shall be admissible as evidence of the contents of the instrument.

New chapter and section to follow Chapter VIII and section 63. 9. After Chapter VIII and section 63 the following shall be inserted, namely:—

CHAPTER VIII A.

Registration under the Indian Registration Act, 1877.

Mode of execution by agriculturists of instruments required to be registered under Act III of 1877. "63A. (*1*) When an agriculturist intends to execute any instrument required by section 17 of the Indian Registration Act, 1877, to be registered under that Act, he shall appear before the Sub-Registrar within whose sub-district the whole or some portion of the property to which the instrument is to relate is situate, and the Sub-Registrar shall write the instrument, or cause it to be written, and require it to be executed, and attest it and, if the executant is unable to read the instrument, cause it to be further attested, and otherwise act, in accordance with the procedure prescribed for a Village-Registrar by sections 57 and 59 of this Act, and shall then register the instrument in accordance with the provisions of the Indian Registration Act, 1877.

"(2) An instrument to which sub-section (1) applies shall not be effectual for any purpose referred to in section 49 of the Act last mentioned unless it has been written, executed and attested in the manner provided in that sub-section."

Amendment of section 72.

10. (1) In section 72, for the words "under this Act," where they first occur, the words "of the description mentioned in section 3, clause (w)" shall be substituted.

(2) In the same section, the words "not being merely a surety for the principal debtor" are repealed.

(3) For the proviso to the same section the following shall be substituted, namely:—

"Provided that nothing in this section shall—

"(i) apply to a suit for the recovery of money from a person who is a surety merely of the principal debtor if the principal debtor was not, at the time when the cause of action arose, an agriculturist; or

"(ii) revive the right to bring any suit which would have been barred by limitation if it had been instituted immediately before this Act comes into force.

No. 5. From A. SHEWAN, Esq., Acting Under Secretary to the Government of Bombay, Judicial Department, to the Secretary to the Government of India,—No. 3258, dated Bombay Castle, the 31st May 1886.

I have the honour to acknowledge the receipt of your letter No. 334 of the 2nd March 1886, forwarding, with remarks, the draft of a Bill prepared by the Government of India to amend the Deccan Agriculturists' Relief Acts, 1879 to 1882, and enquiring to what extent this Government contemplates recommending the extension of the Act beyond the districts in which it is at present in force.

2. In reply to this question, I am directed to state that as at present advised, and after consulting the local Revenue and Judicial officers (copy of whose opinions* accompanies this letter), this Government has arrived at the conclusion that the only district to which the Act could at present be advantageously extended is Khandesh.

3. In arriving at this opinion, His Excellency in Council has to some extent been influenced by the fact that it is necessary to consider seriously the question of expense, especially at the present time, when this Government is threatened with a reduction of the Provincial contract grants. The introduction of the Act into another district will entail the establishment of a number of new Courts, besides a considerable loss in stamps; and it is estimated that every new Court will cost about R8,000 a year. In Khandesh seven such Courts will probably be necessary, costing about R56,000 per annum.

4. If, therefore, section 3 of the draft Bill accompanying your letter becomes law, this Government would at present be prepared to recommend the extension of the Act to Khandesh only.

5. I am further directed to say that His Excellency in Council, after full consideration of the question, is inclined to the opinion that it is not desirable to take a general power to extend the Act to any district in the manner indicated in section 3 of the draft Bill, as he thinks this course might lead to an unsettlement of the relations between the ryots and the money-lenders, even in districts to which Government would never think of extending the Act. Rumours would probably from time to time arise that Government intended to extend the Act to this or that district, and creditors might take alarm and curtail their ordinary business, while endeavouring to obtain a settlement of their outstanding transactions. Such results might prove very inconvenient, and this Government would prefer section 3 of the draft Bill being recast so as to extend the Act to Khandesh alone. It would always be open to the Government of India by further legislation to still further extend the application of the Act.

It seems desirable that the whole Act, and not particular sections only, should be extended to Khandesh. It is true that the Insolvency chapter is a dead letter in the Deccan districts, but it may be found that the agriculturists in Khandesh are willing to avail themselves of its provisions. It may appear that the chapters relating to village munsifs and village registrars are unsuitable to Khandesh. But if so, this Government will not be bound to make appointments under Chapters V and VIII.

6. This Government has no further suggestions to make in regard to the draft Bill as it stands.

*Not printed.

7. I am, however, to say that His Excellency in Council deems this a fitting opportunity for renewing the application made by this Government in 1882 that power may be given to conciliators to compel the attendance of defendants. Since that date this Government has had three years' further experience of the working of the Act, and each year the weakening of the conciliation system, due to its being left optional with parties to attend or not, has been prominently brought to the notice of Government. In this connection I am to refer you to Dr. Pollen's annual* report for 1882, Mr. Woodward's† report of the 25th June 1883, Dr. Pollen's annual* report for 1884, and the Honourable Mr. Melvill's‡ Minute of the 26th April 1884; and I am to forward to you the accompanying extract from the Honourable Mr. Ranade's annual report for 1885. From this last it will be seen that while, when the parties attended before conciliators, conciliation has during the past six years been annually more and more successful, the neglect of defendants to attend has during the same period been annually on the increase. Thus out of the total number of failures the percentage of failures due to the neglect of the defendants to attend was during the past six years as noted below :—

1880.	1881.	1882.	1883.	1884.	1885.
56 per cent.	70	78	83	84	87§

Note.

§ This figure is obtained thus—

Total disposals	42,880
Deduct 513 cases transferred and counted twice over	513
Actual disposals . . .	42,367
From this have to be deducted—	
Cases in which agreements were made .	9,361
Cases dismissed for default of applicant	9,952
Cases withdrawn . . .	2,661
TOTAL .	21,974

leaving 20,393 as the number of failures.

Of these, 17,772 were cases in which the defendant neglected to attend before the conciliator; and 17,772 is 87 per cent. of 20,393.

8. His Excellency in Council does not, in connection with the above, overlook the fact that when parties attend voluntarily before conciliators, they show by their action a disposition to be conciliated; while it may be assumed that a large proportion of the defendants who neglect to attend would never be conciliated, and that a large proportion of the applicants who in the defendant's absence obtain conciliator's certificates never use them in the Courts, and it is to be remembered that these certificates cease to be current after one year. But His Excellency in Council is nevertheless of opinion that this neglect of defendants to attend has reached a stage at which it seriously interferes with the usefulness of the conciliator by depriving him in a large proportion of cases of all chance of exercising his functions; and I am therefore to suggest that the amending Act now before the Government of India should empower this Government to give to certain conciliators power to compel the attendance of defendants by summons or warrant.

9. In 1882 the proposal was that all conciliators should be empowered to direct the attendance of defendants, and that a defendant failing without sufficient excuse to attend should be deemed to have committed an offence under section 174 of the Penal Code.

This proposal was rejected by a majority of the Legislative Council of the Government of India; and mindful of this fact, as well as of the facts noted in paragraph 8 of this letter, His Excellency in Council now asks only for the insertion into the amending Act of a permissive provision to the effect above stated, which would place a conciliator duly empowered in the same position to compel attendance by warrant as is occupied by a Civil Court.

This Government would propose at first to grant these powers only to conciliators resident at zilla and taluka towns, where they would be under continual supervision and liable to criticism. Government could thus try the experiment tentatively, and the power could be withdrawn at any moment from any conciliator by whom it appeared to be improperly exercised; or the power could be withdrawn from all conciliators if it appeared to Government after a trial that the benefits resulting from an increased number of conciliation agreements did not more than balance the evils consequent upon compelling the attendance of a large number of unwilling defendants.

10. I am to add that it seems to His Excellency in Council to be particularly desirable that the person by whom the application is made to the conciliator should be subjected to some penalty if he fails to attend and prosecute his application as "directed." It is very hard upon the defendant to be summoned before the conciliator, and, when he appears, to find that the applicant is only trying to annoy him, and has not taken the trouble to appear. It appears from Mr. Ranade's report that in 1885 not less than 9,952 applications were dismissed on account of the failure of the applicant to appear. The Special Judge recommends that in

* Not printed. † Printed on page 335. ‡ Printed on page 366.

cases of wilful default of this nature the applicant should be subject to a penalty similar to that provided in section 103 of the Civil Procedure Code, and in this recommendation the Governor in Council concurs.

No. 6. Telegram from Home, Simla, to Government of Bombay,—No. 1065, dated the 30th July 1886.

Your letter No. 3258, dated 31st May—Bill to amend Deccan Agriculturists' Relief Act. After fully weighing objections taken to section 3 of Bill, Governor General in Council adheres to expediency of taking general power to extend whole or any portion of Act to any other district or districts rather than incur the necessity of legislation in Governor General's Council on each occasion. Unless His Excellency the Governor in Council sees insuperable objection, Government of India accordingly proposes to allow section to stand.

No. 7. Telegram from Under Secretary, Judicial Department, Poona, to Home, Simla,—dated 3rd August 1886.

Your telegram July 30th. Governor in Council is willing section three of Bill to amend Deccan Relief Act should stand.

No. 8. Office Memorandum No. 1120, dated Simla, the 10th August 1886.

In continuation of the communication from this Department, No. 335, dated the 2nd March last, on the subject of the amendment of the Deccan Agriculturists' Relief Act,* the undersigned is directed to forward to the Legislative Department copies of the papers marginally† noted, and to say that the desirability of undertaking legislation on the lines of the revised draft Bill, which formed an enclosure of the communication above cited, is accepted by the Home Department. The undersigned is accordingly to request that early steps may be taken for the introduction into the Council of the Governor General for making Laws and Regulations of a measure on those lines, together with such additions as may be considered desirable in order to give effect to the suggestions made in paragraphs 8 and 10 of the present letter from the Bombay Government with the object of (1) compelling the attendance of parties before conciliators, and (2) providing a penalty for cases of wilful default on the part of applicants.

* Act XVII of 1879 as amended by Acts XXIII of 1881 and XXII of 1882.

† Letter from the Government of Bombay, No. 3258, dated 31st May 1886, with enclosures.

Telegram to the Government of Bombay, No. 1065, dated 30th July 1886.

Telegram from the Government of Bombay, dated 3rd August 1886.

F. C. DAUKES,
Under Secretary to the Government of India.

To
The Legislative Department.

No. 9. From A. P. MacDonnell, Esq., Secretary to the Government of India, to the Chief Secretary to the Government of Bombay,—No. 1515, dated Simla, the 12th September 1887.

I am directed to acknowledge the receipt of your letter No. 4296,* dated the 26th July last, submitting the annual Report on the working of the Deccan Agriculturists' Relief Act, XVII of 1879, for the year 1886, in the four districts to which it applies, *viz.*, Poona, Satara, Sholapur and Ahmednagar, together with a Resolution recorded by the Local Government thereon.

2. With reference to this Report, I am to request that, with the permission of His Excellency the Governor in Council, it may be stated for the information of the Government of India whether it is intended to extend the Deccan Agriculturists' Relief Act to Khandesh or other districts.

3. I am at the same time to invite attention to the correspondence ending with the endorsement from this Department, No. 106, dated the 19th January 1887, and to enquire whether His Excellency in Council desires that the term for which the appointment of Special Judge under the Act has been created should be extended, and if so, for what period.

No. 10. From W. Lee-Warner, Esq., Secretary to the Government of Bombay, Judicial Department, to the Secretary to the Government of India, Home Department,—No. 3356, dated Bombay Castle, the 25th June 1890.

I am directed to acknowledge the receipt of your telegram No. 457,* dated the 13th of April 1889, relative to the special report on the operation of the Deccan Relief Act called for by Her Majesty's Secretary of State in Judicial Despatch No. 2,* dated the 26th of January 1888, and in Despatch No. 3* of the same Department, dated the 9th of January last.

* Not printed.

2. I am to express the regret of the Governor in Council that His Excellency's predecessor was unable to dispose of this reference before he resigned office, and that it was impossible for His Excellency to arive at any conclusion on the important points raised by the voluminous correspondence without the subsequent delay of a few weeks which has since occurred. The illness which compelled the Honourable Sir James Richey to retire from the service of Government without recording his opinion on Mr. Woodburn's report, is also a subject for special regret.

3. I am now to forward, for the information of the Government of India, a copy of the report submitted by Mr. Woodburn, who was placed on special duty to prepare it, and at the end of the compilation will be found the "observations" on the whole subject traversed by that report, recorded by the Honourable Sir Raymond West. The minutes lately recorded by the Honourable Mr. Moore and by His Excellency the Governor are appended to this letter, and will indicate the various views of the members of this Government upon the difficult questions discussed. In order that the Government of India may be in possession of the latest statistics of the working of the Act, I am to forward a copy of the Administration Report for the year 1889.

4. The first question for consideration is whether the Deccan Agriculturists' Relief Act, 1879, as amended by Acts XXIII of 1881, XXII of 1882, and XXIII of 1886, should be retained in force in the four Districts of Poona, Ahmednagar, Sholapur and Satara. It appears to this Government that the bulk of evidence goes to show that the system of conciliation, Chapter VI, and that of registration by village registrars, Chapter VIII, have failed. The jurisdiction provided by Chapter V for exercise by village munsiffs has not proved successful owing to a want of qualified Patels and other persons, and the only form in which the relief to Subordinate Judges, contemplated by sections 34 to 37 of the Act could conveniently be given, appears to this Government to lie in the investiture of head clerks to the Subordinate Judges with limited jurisdiction. Chapter VII of the Act relative to superintendence and revision would need modification, so as to unable, rather than to compel, Government to appoint Assistant or Subordinate Judges; and this subject will be discussed later on in connection with the question of retaining the services of the present Special Judge and his Assistant Subordinate Judges. In regard to section 72 of the Act, this Government would be disposed to fix the period of limitation in all cases at six years. With these alterations of the law, but not otherwise, the Governor in Council would not object to leave the four districts in question to the operation of the revised Act, on the ground that special legislation has been in operation there for the last ten years and it is not desirable to put an abrupt termination to it. If the Act modified, as just proposed, be retained for the four districts, this Government would then consider it desirable to extend its operations to the District of Nasik, in accordance with the recommendation of the Collector given at page 125 of the compilation.

5. In previous correspondence the question has been raised as to whether the services of the Special Judge and his two Assistants or Special Subordinate Judges should be retained. The Governor in Council considers that, if the revised Act is to be extended to the large District of Nasik, the supervision of the Special Judge will be necessary at the outset at least, and in the meanwhile he desires to retain him and continue his appointment for another year, if the question of extension is not in the interim settled, subject to the following condition—that the Special Judge shall receive his present salary and be available for employment as a Joint Judge in any one of the Districts affected by the Act. By this arrangement relief could be given where it is most needed, and the District Judges would take charge of the working of the Act with the Special Judge available to render assistance if it was required. In the same way, and subject to the same conditions, the Governor in Council proposes to retain the two Special Subordinate Judges, with the option to Government of attaching them to any Court in the affected districts, or of employing them as at present according as circumstances require. The experience gained under this arrangement will throw valuable light upon the capacity of the District Judges to find time for the conduct of the duties of Special Judge within the limits of their jurisdiction. But in the meanwhile, as directed in your letter No. 183,* dated the 15th of February 1889, the opinion of the High Court will be invited on the question raised in the third paragraph of that letter.

6. The Governor General in Council will observe that the question has been raised in the discussions on the Act and in the minutes of the Honourable Board, as to whether experience has not demonstrated the advantages of introducing certain alterations into the general law affecting

* Not printed.

all transactions between debtor and creditor. His Excellency the Governor is unable to concur with his Honourable Colleague Sir Raymond West in the important proposals suggested by him in Part IV of his printed "observations," but the Governor in Council desires me to invite the attention and consideration of the Government of India to them. To this extent the Government of Bombay is unanimous, in recognizing the desirability of enabling Civil Courts to decree the payment of debts by instalments, and in proposing to fix the limitation term for personal debts generally at six years.

7. In conclusion I am to request that, until the questions raised in this correspondence are settled, the continuance of the appointment of the Special Judge may be sanctioned without the renewed application which otherwise it would be necessary shortly to submit to Her Majesty's Secretary of State.

No. 11. Resolution by the Government of Bombay, Judicial Department,—No. 2709, dated Bombay Castle, the 25th May 1888.

The Governor in Council is desirous of being placed in possession of fuller information relative to the general, financial and judicial effect of the working of the Deccan Agriculturists' Relief Act, and the desirability of extending the operation of that Act or certain provisions thereof to other districts than those in which it is now in force.

2. In order to obtain information relative to the general and financial effect, a special officer should be appointed to collect and compile facts and statistics connected with the working of this Act. The facts and statistics to be collected should have particular regard to: (1) the effect of the Act on the well-being of the agriculturist and the general community; and (2) its effect on the relations between the rayats and past and future creditors in those districts in which it is in force, as compared with the effect of the ordinary law in that respect in the districts of Khandesh, Nasik, Thana, Bijapur and Ratnagiri. Enquiry should also be made regarding the tendency towards the concentration of land in the hands of capitalists. It is understood that this tendency is specially marked in the Thana District. In connection with this subject, any causes of increase in this tendency, arising from the working of the ordinary law as distinguished from economical and social causes, should be pointed out.

3. In addition to the matters above indicated the special officer should endeavour to collect facts and statistics from the Revenue, Judicial and Registration records of the districts named above, which may elucidate the subjects treated of in the report of the "Deccan Riots Commission." He should pay special attention to the operation of those parts of the Deccan Agriculturists' Relief Act which are enumerated in Government Resolution No. 395, dated 15th January 1885, Judicial Department; and in comparing the effect of the working of that Act with that of the ordinary law, the amendments made in the Code of Civil Procedure since the passing of the Deccan Agriculturists' Relief Act should not be lost sight of.

4. The special officer should also enquire into and report on the cost of working the Deccan Agriculturists' Relief Act as compared with that of the Courts and establishments working under the ordinary law, and on such measures as would be needed to make its working financially self-supporting. In this connection the Inspector General of Registration and Stamps should be requested to furnish the special officer with a balance sheet showing in full for the past year the income and expenditure of his Department, in so far as it relates to the working of the Deccan Agriculturists' Relief Act. The balance sheet should be so framed as to show exactly the cost in the Department of Registration and Stamps of the working of the Act, and the total income in that Department derived under that Act.

5. The Special Judge appointed under the Deccan Agriculturists' Relief Act, and the Inspector-General of Registration and Stamps should report whether in their opinion the fees and stamp duties payable in litigation under that Act, might not, with advantage, be placed on an equality with the fees and stamp duties in ordinary litigation; and what would be the probable financial effect of such a change, regard being had to any probable decrease of litigation from an increase in its costs.

6. The District Judges of Poona, Satara, Ahmednagar and Sholapur-Bijapur should, after consultation with Subordinate Judges and other persons whose opinions are of most value, report to Government their opinions on the following matters:—

(i) How does the system of the Deccan Agriculturists' Relief Act compare with the ordinary system working side by side with it, as regards the attainment of substantial justice?

*Not printed.

(ii) How does it so compare as to certainty; so that the probable decision on a given state of facts, can or cannot be predicted with reasonable confidence?

(iii) How as to celerity; (*a*) as between the first step to be taken in a litigious proceeding and the decision of the suit; and (*b*) as to the effectual enforcement of decrees when obtained?

(iv) How as to convenience; the aim being to attain just and sound decrees and effectual execution, at a minimum of harassment and loss of time to parties and witnesses?

(v) How as to economy; (*a*) accepting the system of differential fees now in force, (*b*) on the supposition that the fees in ordinary suits were reduced to those required in suits under the special Act, and (*c*) on the supposition that the specially reduced fees were raised to the ordinary level?

(vi) Does the system of the Deccan Agriculturists' Relief Act tend to the institution of many righteous suits which would otherwise be suppressed? Does it encourage to any material extent the institution of unjust or speculative suits?

(vii) Does it tend to improve or to impair (*a*) the material and (*b*) the moral condition of the community; regard being had (1) to individual energy and enterprise; (2) to the introduction and application of capital; (3) to the security of property; and (4) to personal relations and the fulfilment of obligations? How does it compare in these respects with the ordinary law of Civil Procedure?

(viii) Are any changes necessary or desirable and at the same time feasible, in the provisions of the Act, whereby it can be made or kept superior to the ordinary law?

(ix) Are any changes in the mode of working the Act necessary or desirable (*a*) in the rules and directions promulgated by Government and (*b*) in the machinery and personnel; regard being had (1) to efficiency; and (2) to economy?

(x) Is it desirable to extend the Act to other classes than agriculturists in the districts in which it is now in operation; (*a*) without; or (*b*) with modifications?

(xi) Is it desirable to extend it to the agriculturist class in other districts or to all or some other classes; (*a*) without; or (*b*) with modifications? and can the Act be with advantage made of general operation?

(xii) Are there any particular provisions of the Act which can with benefit be adopted into the general system of Civil Procedure with or without qualifications?

(xiii) Does the working of the Act suggest any improvements either in the Code of Civil Procedure or the constitution and jurisdiction of the Civil Courts or in their way of working under the ordinary law; or in the system of fees?

7. The Chief Justice and Judges of Her Majesty's High Court of Judicature, Bombay, should also be invited to state for the information of the Governor in Council their opinions on these points.

8. The Collectors of Khandesh, Nasik, Thana, Bijapur and Ratnagiri should report whether in their opinion it is desirable to extend the operation of the Deccan Agriculturists' Relief Act, either wholly or partially, and either with or without modifications, to their districts; and whether if they favour such extension the operation of the Act should cover some or all of the agricultural classes, any other classes or the whole community. It is desired that the Collectors will have particular regard to such matters embraced within the questions set forth in paragraph 6 as have fallen under their cognizance.

9. The Collectors should submit their opinions to Government through the special officer to be appointed. The District Judges should submit theirs to Government through the High Court.

J. J. HEATON,
Acting Under Secretary to Government.

Resolution by the Government of Bombay, Judicial Department.

His Excellency the Governor in Council is pleased to appoint Mr. Woodburn to be the Special Officer to make the enquiries directed in Government Resolution No. 2709, dated 25th May 1888, from the date of being relieved of his duties as Forest Settlement Officer of Ahmednagar. No. 12.

J. J. HEATON,
Acting Under Secretary to Government.

No. 13. A. F. WOODBURN, Esq., C.S., on Special Duty, to the Secretary to Government, Judicial Department, Bombay,—No. 189, dated Ahmednagar, the 27th April 1889.

I have the honour to submit the report called for in Government Resolution, Judicial Department, No. 2709, dated 25th May 1888.

The principal economic facts of the districts to which the report relates will be found in Appendix A. Two of the nine districts (Thana and Ratnagiri) are within the zone of heavy rainfall. Poona, Satara, Ahmednagar, and Nasik resemble each other in climate. In all four there is a belt of certain rainfall, which is of very small extent in Ahmednagar, extending for a short distance inland from the crest of the Sahyadris. Eastward of this the rainfall is very uncertain and capricious. The latter are the characteristics of nearly the whole of Sholapur and Bijapur, but in the most easterly parts of both a region of less uncertain rainfall is reached. In regard to certainty of rainfall they have probably a slight advantage over Ahmednagar, and are not quite so well off on the whole as the three other Deccan districts. Khandesh, as regards climate, is not unlike the Deccan. The rainfall is certain in the extreme west and fairly certain in other places; but there are portions of the district where the rainfall is almost as capricious as in the worst parts of the Deccan. Although Thana and Ratnagiri are practically free from drought, yet the outturn of the crops is greatly affected by the seasonableness or otherwise of the rainfall. A similar remark applies to the districts liable to drought, where good crops are often secured by a light but seasonable rainfall.

Population varies greatly in density in the different districts, from 111 per square mile in Bijapur to 254 in Ratnagiri. The latter is the only district of the nine where population has reached the limits of subsistence obtainable from the soil. The people, however, have facilities for emigration during the fair season, of which they avail themselves in yearly increasing numbers. In Khandesh the number of people per square mile is 139, but it must be remembered that there are large forest tracts, and that the density of population in the eastern talukas is much greater than the average for the whole district.

The two Konkan districts contrast in many ways with the Deccan and Khandesh. For instance, in the former the average size of holdings is, for Thana 12 acres and for Ratnagiri 7 acres, while in the Deccan and Khandesh it varies from 22 acres in Khandesh to 49 in Sholapur. The incidence of the land revenue per occupied acre is in Thana Re. 1-2-11 and in Ratnagiri Re. 1-1-0, while (excluding Khandesh Re. 1-1-11) it varies in the other districts from Re. 0-7-7 in Sholapur to Re. 0-13-9 in Satara. The incidence per head of population increases as a general rule as the density of population diminishes, varying from Rs. 2-1-11 in Bijapur to Re. 0-14-0 in Ratnagiri. In Thana and Ratnagiri fallows amount to 19 and 37 per cent. respectively of the land in occupation, while in the other districts they vary from 5 per cent. in Khandesh to 11 per cent. in Sholapur. In Ratnagiri there is practically no waste available for extension of cultivation. In the four districts to which the Deccan Agriculturists' Relief Act applies the margin of waste forms from 2 to 4 per cent. of the gross area, while in the other districts it varies from 6 per cent. in Nasik to 8 per cent. in Thana and Bijapur and 18 per cent. in Khandesh.

The character of the cultivation is well illustrated by the size of the holdings and the extent of fallows before referred to, and by the nature of the crops grown. In the Konkan districts rice and coarse grains are the principal staples of production. The latter are grown on slopes of hills or uneven ground of poor quality unsuitable for rice, and frequent fallows are necessary. The proportion of non-food crops is very small, and cotton and wheat are not grown at all. In the other districts rice and coarse grains are grown to a comparatively very small extent. The millets, bajri and jowari are the staple food-crops. In the Deccan districts proper the percentage of non-food crops varies from 8 in Satara to 26 in Bijapur, while in Khandesh it rises to 44. In all these districts wheat is grown for export, the percentage to total crop area being highest in Nasik (14), and Khandesh (11), while cotton is extensively grown in Khandesh (33 per cent. of crop area) and Bijapur (16 per cent.). Khandesh has a great advantage over the Deccan in this—that the best soils in Khandesh are much more easily worked than soils of equal fertility in the Deccan: in other words, the expenses of cultivation are considerably less.

2. I shall now give some general imformation, compiled chiefly from the Gazetteers relating to the subjects treated of in the report of the Deccan Riots Commission, confining myself especially to the districts of Khandesh, Nasik, Thana, Ratnagiri, and Bijapur.

Castes and Character of Money-lenders.

In all the nine districts individuals of nearly all castes, including Mussalmans, engage in money-lending. The bulk of the business is in the hands of Marwar, Gujarat, and Maratha

Wanis, and Brahmins, village headmen and well-to-do landholders also share in the business which is seldom the only occupation followed. Most lenders are generally also traders, shop, keepers, or agriculturists. On the whole the Marwar Wanis have the largest share in the money-lending business, though their numbers vary in different districts. Everywhere the Marwari "has the worst name and is harshest and most unscrupulous in his dealings with his debtor;" the reputation of the Gujarat Wani is next worse, while village headmen, and to a less degree the better sort of landholders, are generally said to be more lenient to their debtors than others, except where a cultivator sees a chance of profitably adding to his own land by pressing a debtor.

A few special features may be noticed. In West Khandesh, for instance, much of the field labour is done by the Bhils, who form a sort of partnership with the Gujar Kunbis who own the land. The latter advance money for the expenses of cultivation and for food and clothing, and the result usually is that the Bhil does all the work and gets very little of the profit, and eventually finds himself deeply in debt to the Gujar, held in bondage by threats of resort to the Civil Court. "It is not uncommon for a Bhil under the pretence of a transfer of his debt to be handed from one creditor to another. A Bhil with a decree against him is worth more than one whose debts are smaller" (Gazetteer). The Gazetteer was published eight years ago, and I believe the condition of the Bhil is not now quite so hopeless and helpless as it was.

In Thana while Brahmins, Maratha, Gujarat and Marwar Wanis have the bulk of the money-lending business in their hands, the Parsis are the chief usurers among the wild tribes in the North-West. A few of the latter and some Christians also do some business in the neighbourhood of Thana, while Bhatias and Kayasth Prabhus are found in some of the larger towns and villages.

Ratnagiri is the only district of the nine to which the Marwar Wani has not found his way. Brahmins and Gujars are the wealthiest of those who engage in money-lending. Maratha Kunbis and Mussalmans deal with the poorer cultivators only.

"In Khoti villages the hereditary or Vatandar Khots, who receive most of their dues in kind, are the chief grain-dealers and money-lenders. Their position corresponds to that of the Deccan Sawkars, with the difference that having a direct interest in the prosperity of their villages and the welfare of their tenants, they are more liberal in their dealings with their debtors. On the other hand, mortgagee Khots, unfortunately rather common in Ratnagiri, who hold estates for a limited time, are almost always unpopular, having no permanent interest and being naturally anxious to get in a short time the largest possible return.

In Bijapur Lingayets of the Wani and other castes engage in money-lending besides Brahmins, Gujarat and Marwar Wanis, Marathas, Komtis, and Mussalmans. In this district many money-lenders suffered heavy losses in consequence of the famine of 1876-77:

"They had the bulk of their capital tied up in advances made before the famine partly on personal security and partly on mortgage. Many of the advances on personal security will have to be written off as bad debts The advances on mortgages are to some extent secured by lands and houses. At the same time, compared with its value before the 1876 famine, the value of land has fallen by about one-fourth and of houses by one-half, so that the mortgagees have no prospect of realizing their capital for years. They can take and in most cases have taken the land, but in many parts of the district the present value of the land is less than the amount they advanced on it. . . No money lenders have been forced to leave the villages for the towns or to leave the district and no money-lender has been reduced to the position of a labourer, but many have given up lending and put their whole capital into land or into trade."—(Gazetteer.)

Rate of Interest.

3. It seems next to impossible to determine what would be called an average rate of interest in different classes of transactions, because rates depend in every case so much on the personal credit of the individual borrower, the urgency with which he needs the loan, the amount of the loan itself, and other circumstances. A comparison of the different Gazetteers shows that as a rule the following rates were common: (*a*) in small transactions where an article is given in pawn, 9 to 24 per cent.; (*b*) in petty agricultural advances on personal security, 12 to 36 per cent.; (*c*) in large transactions with a mortgage on moveable property, 6 to 18 per cent; (*d*) on mortgage of immoveable property, 6 to 18 per cent. Extreme rates are often very much higher.

It is a common practice everywhere for Sawkars to advance grain for seed or for the rayat's subsistence. The usual terms for such advances, according to the Gazetteers, are that they should re-pay at harvest with an addition of 50 per cent. In Ratnagiri 25 per cent. is said to be the common rate. In all districts much harder terms than those quoted are made in individual instances.

All the Mamledars and Subordinate Judges in the nine districts under report have sent me what they consider to be the prevailing rates of interest in their charges. There is considerable variation not only in the same district but in the same sub-division, but the following table may be taken to represent the prevailing opinions ;—

Districts.	Rates of Interest.				
	On personal security (*e.g.* when one cultivator gives another as security).	On mortgage of land or other immoveable property.	On mortgage of moveable property, including crops.	Without security.	On advances of grain (paid in grain).
	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.
Poona	12 to 37½	9 to 24	6 to 37½	12 to 48	25 to 100
Satara	12 to 24	6 to 18	6 to 24	12 to 36	25 to 50
Ahmednagar	16 to 37½	9 to 24	12 to 24	12 to 37½	25 to 100
Sholapur	12 to 36	9 to 24	12 to 36	12 to 37½	25 to 100
Khandesh	9 to 37½	6 to 24	6 to 24	9 to 37½	25 to 100
Nasik	9 to 24	9 to 18	12 to 24	12 to 37½	25 to 100
Thana	6 to 24	6 to 24	6 to 24	6 to 75	50 to 100
Ratnagiri	12 to 24	4½ to 12	6 to 24	12 to 37½	25 to 100
Bijapur	12 to 24	9 to 24	4½ to 24	12 to 36	25 to 50

Money-lenders' Accounts and Dealings.

4. Everywhere it is only the large money-lenders who keep regular accounts. These consist of a rough note-book and a properly kept day-book and ledger. The smaller money-lenders, as a rule, kept nothing beyond a rough note-book and almost all their lending business is done on bonds. Frequently several bonds, instead of a single one, are taken in a single transaction. The small money-lenders usually trade on money borrowed from wealthy money-lenders.

Information as to relations of money-lenders with craftsmen and artizans of different kinds is somewhat incomplete ; but they do not appear to differ essentially from their relations with agriculturists. A few of the better sort of craftsmen or of particular castes, such as Sonárs, who have little need of capital, are free of debt, while others are more or less indebted.

Debt is usually incurred by agriculturists to meet the expenses of various family ceremonies, or for seed or subsistence, or to pay the Government assessment. Among artizans the usual occasions of borrowing are to meet the cost of family ceremonies, and to purchase the raw materials of their industries. The handloom weavers are in places, *e. g.*, Khandesh and Bijapur, very much in the hands of their sawkars :

"In Bijapur the cotton and silk weavers and dyers and the blanket weavers suffered severely during the famine, both from the ruinous dearness of grain of which they had no store, and because, as the people were forced to spend their all in buying food, with the first pressure of want the demand for clothes and blankets ceased. Many lost their whole capital and many fell into debt. Since 1878 the demand for cloth and blankets has been steadily on the increase, and, with cheap grain and constant employment, the weavers have succeeded in paying much of the famine debt. Craftsmen, especially builders, brick-layers, masons, carpenters, and blacksmiths, lost grievously during the famine as building was at a stand. Since 1878 . . . . . they have found constant employment, and day's wages have risen to R1. As they receive the whole of their wages in cash they have gained the full advantage of the cheap grain prices which have prevailed during the three years ending 1882. Many are hampered by famine debt. Still beyond question as a class skilled workers have saved largely during the last four years."—(1882 Gazetteer.)

The condition of day labourers has scarcely ever been better. At all events this is the case in Khandesh, Nasik, and Bijapur. As a rule they do not find it difficult to contract loans of small amount. In all districts, except Ratnagiri, the custom is more or less prevalent for labourers to raise money by mortgaging their labour for a term of years. A marriage or other family ceremony is frequently the occasion of such a loan. The general opinion seems to be that the conditions of service are such as to entail little hardship on those who enter into contracts of this kind. A somewhat similar custom is found in Ratnagiri, but there the service is given to pay off debts previously contracted by the labour-mortgagor or by his father. In Bijapur,

"unskilled workers suffered grievously in the famine. During the famine the want of stores or any other form of capital made their sufferings keener than those of any other section of the people. At the same time two causes have contributed to make their recovery more rapid than that of the classes above them. Their want of credit prevented them from loading themselves with debt, and the great fall in the supply of labour from death and from flight has raised its value, and further all those whose wages are paid in cash have reaped the full benefit of the cheap grain prices of the last four years" (1882).

In Thana and Ratnagiri the standard of living and the rate of wages of day labourers has varied very little in recent years. The following description of day labourers and the poorer classes of the population generally in Ratnagri is from the Gazetteer from information supplied

by Mr. A. T. Crawford in 1878, and is still generally applicable. The more favourable condition of the coast villages as compared with the inland districts is perhaps not sufficiently noticed.

"The agricultural classes, though frugal and given to few extravagances, are forced to borrow. Few cultivators reap a sufficient harvest to satisfy their own needs and re-pay their creditors. The field labourers can subsist only for a few months on the wages of tillage. The local demand for other labour is small and uncertain, and the villagers own neither carts nor pack bullocks wherewith to earn carriers' wages. Unpromising though their condition seems, the poorer classes manage to live and are probably less encumbered with debt* than the Deccan cultivators. The chief causes which restore equilibrium and avert destitution are emigration and military† service. In November, soon after the early harvest is over, the able-bodied husbandman, leaving a scanty store of coarse grain for the support of the young, the sick, and the aged of his family, goes to Bombay. There for six months or more he usually succeeds in getting good wages, and saving a few rupees, returns to his home in May, in time to prepare his fields for the yearly crop. About 100,000,‡ or ten per cent. of the population, are believed to perform this yearly pilgrimage to Bombay. Others, getting permanent and lucrative employment, remain absent from their villages for long periods, remitting their savings§ to their families. Besides the remittances§ poured into the district by men on service, no less than Rs. 4,50,000 are yearly paid by the State to military pensioners. Thus the revenue collected by Government is in great part returned to the district, and the cultivators enabled to maintain themselves despite the deficient produce of their land. The time of greatest pressure throughout the district and more especially in the wild country on the slopes and spurs of the Sahyádri Range is from May to November, when the cultivators, having exhausted their stores of food and money, are anxiously waiting for the coming harvest. As no part of the district yields grain enough for the population, large imports by sea and land are a yearly necessity. During the rainy months the imports cease and prices rise. It is at all times difficult to carry grain to the tract at the foot of the Sahyadri hills, and this is more especially the case during the rainy months. In the best of seasons some scarcity is inevitable, and for some weeks before harvest the hill peasantry are compelled to live on esculent roots and leaves and wild plantains. These privations are expected and endured with characteristic patience. Any failure of the coarse hill-grains, which are to the Konkanis what millets are to the Deccanis, causes severe distress. In the coast districts the inhabitants are less dependent on the harvest, and whether the rice crop is large or scanty makes little difference to the poorer classes, to whom such food is an unattainable luxury. Here, as in the inland villages, it is in the rainy months that the pinch is felt. Very few cultivators can tide over this time without obtaining advances of grain or money on the security of the coming crop. The grain dealers and money-lenders have become a necessary part of the system. Probably half the entire cultivation depends mainly on capital thus utilised. As is natural, complaints of unfair dealings are now and then made, but on the whole the borrowers admit the usefulness of the lenders and are satisfied with the terms they obtain. Agrarian crime is almost unknown. Creditors are not as a rule greedy. They are often forbearing and will help a cultivator with seed and land when his credit is so low that a Deccan Marwari would not advance him an anna."

* The great majority of the agricultural population is now said to be in debt.—*Report on the Economic Condition of the Masses.*

† The Konkan has furnished over 9,000 men for the army since 1880.

‡ Now 126,000.

§ The disbursements in there Post Offices in one year was 8 lakhs and of military pensions 5¼ lakhs,—*Report on Economic Condition of the Masses.*

5. The dealings of money-lenders with agriculturists will be gone into further on, but it will be convenient here to notice some features of land mortgages in different districts. In Khándesh and Násik mortgage without possession is more usual than mortgage with possession. The mortgagor tills the land, pays the assessment, and shares the produce with the mortgagee on such terms as may be arranged.

In Ratnágiri the land tenures are peculiar :

"The Khot is the superior holder, or a co-parcenary of superior holders, who have the hereditary right of settling with Government for the whole village rental. The Khot or the members of the Khot co-parcenary usually hold and farm a small portion of the village lands themselves. The rest of the lands are sublet to husbandmen most of whom are privileged tenants, or tenants by prescriptive right, who cannot be ousted so long as they pay the Khot the customary, or if agreed on, a fixed proportion of the crop. Standing crops are annually inspected, and the outturn appraised by the Khot. Only about 5 per cent. of the tenants are now tenants-at-will paying rack-rents * * * . The usual proportion of the crop taken by the Khots is one-half in rice and garden land and one-third in up-lands. * * * The 'Dhárekari' holds his lands direct from the State and pays his assessment in cash. Subject to the State demand he has a full right in his holding, and may inherit, sell, or mortgage, and within certain limits re-enter after relinquishment. In villages where there are Khots the Dhárekari pays his rent through the Khots. The Khot can claim no profit from the Dhárekari. The Khot's only claim over dhára land is a reversionary interest when it has finally lapsed. * * As land investments the holdings of the peasant proprietors, dhárekaris, are in most demand. Next to peasant holdings the best form of land investment is the purchase of the estates of the Khots. In former years the acquisition of a Khoti estate, with the power, position, and influence it brought was an object of ambition to many a rising family. Within the last ten or twenty years the popularity of these investments has declined. The minute subdivision of shares and consequent disputes and litigation, the tenants' growing independence and the increasing difficulty in collecting rents, the uncertainty regarding rights and privileges claimed by the Khots and disputed by the State, have all more or less contributed to this effect. Still they yield fair profits and a yearly return of from 6 to 12 per cent. is usually expected and realised. The occupancy rights of tenants in Khoti lands are heritable but not ordinarily transferable by sale or mortgage. The purchase of such rights,

even could it be effected, would yield little or no return, as, after paying the Khot's demand, only a margin sufficient for the bare subsistence of the cultivator usually remains. It appears that "sales of land in execution of Court decrees have increased within the last ten years. The chief cause of this was the registration of Khots' tenants as survey occupants in the villages where the survey settlement was first introduced in the Dápoli Khed, and Chiplun subdivisions. Numbers of such occupancies were sold in execution of decrees during the few years after the introduction of the survey, but the transfers were for the most part nominal, inasmuch as the occupancy right of the tenants was transferable by inheritance only, and not by sale or mortgage, and the auction purchasers of the tenant's interest could not acquire thereby the privileges of permanent occupants. From the same causes there has been an increase in the amount of land mortgaged, but the title of the mortgagees in such cases is usually bad. In mortgages there is no fixed custom as regards possession. In each case it is a matter of agreement between the parties "—(Gazetteer).

The proportion of Dharekaris to Khoti tenants is about 100 to 166.

In Bijápur the famine of 1876-77 has had a marked influence on money-lending transactions. The Gazetteer says (1882):

The local capital has been so much reduced by the 1876-77 famine that much better security than formerly is required * * At present lenders refuse to advance except to the better class of landholders and refuse even in their case, unless ornaments or specially good land is pledged. Houses are not held to be such good security as land. No money-lenders have been forced to leave the villages for the towns or to leave the district, and no money-lender has been reduced to the position of a labourer, but many have given up lending and put their whole capital into land or into trade * * . Besides some high Government servants and pleaders money-lenders have lately invested money in buying land, taking possession by foreclosing mortgage deeds. As a rule men of this class do not till the land themselves. They give it to the former holders or more often to outsiders on the share system, under which they receive from a half to one-third of the produce in kind. * The second class of money-lenders, that is those with capitals of R5,000 to R1,00,000, have the bulk of their capital tied up in advances made before the famine, partly on personal security and partly on mortgage. Many of the advances on personal security will have to be written off as bad debts. The advances on mortgages are to some extent secured by lands and houses * * . Under Civil Court decrees many husbandmen have been forced by money-lenders to part with their land. Much land which for some time had been practically the money-lenders', during the 1876 famine and in the following years became registered in his name. The money-lender paid the assessment and the former occupant disappeared. It is estimated that during the six years ending 1882 about 25,000 acres in each sub-division have thus changed hands. Immediately after the famine the money-lenders threw up a large area of land as there was no one to till it. They kept the best. Since the famine they have shown great anxiety to get hold of as much good land as possible, often insisting on good land being made over to them before they make any advance. Of the husbandmen who have lost their land, some are engaged by the new holders to till the land on condition of paying the landlord one-fourth to one-half of the crop; most have become labourers and, as the 1881 census showed, a very large number have disappeared, having either perished or left the district * * . Since the 1876 famine the practice of making borrowers part outright with their property has become commoner. This is one of the signs of the greater caution which money-lenders show in obtaining the best possible form of security. * * Since the 1876 famine the poorer landholders have shown more thrift and forethought than formerly in laying by grain enough for one year's food and for the next seed time. Marriage and other incidental expenses have been considerably curtailed. To a well-to-do husbandman, who spent at least R200 before the 1876 famine, marriage now costs about R100, and to a poor husbandman who spent about R100, the cost has in some cases fallen to R10.

Varieties of Mortgage Tenures.

It would take much time to compile anything like an exhaustive list of the different mortgage-tenures, and to determine what are the prevalent forms in the various districts. The more recent reports, however, on the Revision Survey and Settlement of different tálukas afford information on this subject extracted from the Registration Offices for various periods from 1876 to 1886; and although these relate to only a small portion of the nine districts, I thought it worth while to make an analysis of the information available. The first result apparent is that custom as to the form of mortgage varies greatly, not only in different districts but in different portions of the same district, and I should hesitate, therefore, to modify the statements previously made as to the most usual forms of mortgage in particular districts.

The statistics examined relate to 2 tálukas of Poona, 1 of Sátára, 6 of Ahmednagar, 1 of Sholápur, 2 of Khándesh, 2 of Nasik, 3 of Bijápur, 1 taluka and 1 peta of Thana, and 1 taluka of Kolaba. The conditions of over 4,500 land mortgage cases have been tabulated. These show that it is a much more common stipulation for the mortgagee than for the mortgagor to be in possession. The exceptions are Chopda in Khandesh, where out of 511 transactions the mortgagor was left in possession in 485, and the talukas of Thana and Kolaba, where out of 992 transactions the mortgagor was left in possession in 557. In the remainder of the talukas the proportions were :—

Mortgagor in possession	196
Mortgagee in possession	2,826

It is curious to notice the figures for Chopda and Savda, two adjoining talukas of Khandesh.

	Mortgagor in possession.	Mortgagee in possession.
Chopda	485 cases.	29 cases.
Savda	9 ,,	902 ,,

A summary of the whole is given in the following statement. The most common stipulations are (column 5) that if the debt is not paid within the time fixed, the land is to be sold in satisfaction, and (column 6) that the mortgagee's possession is to remain until payment of the debt. Next comes column 7, and then a most pernicious form which stipulates that the mortgagee is to have the usufruct of the land in lieu of interest. A contract of this kind, if the owner has pledged all his land, can leave him very little hope of redemption. Though not unknown elsewhere this form apparently is more prevalent in some parts of Poona, Ahmednagar, and Nasik. The remaining forms given are mostly local.

District.	Taluka.	Years for which stipulations of mortgages examined.	Total number of transactions of which stipulations examined.	PERCENTAGE OF TRANSACTIONS THE STIPULATIONS OF WHICH COME UNDER THE HEADING BELOW.										
				If debt not paid within time fixed, land to be sold in satisfaction.	Mortgagee's possession to remain till payment of debt.	Debt to be repaid by instalments under penalties.	Mortgagee to have usufruct of land in lieu of interest.	If debt not paid, interest to be charged till payment.	Part produce to be paid in lieu of interest.	Part produce to be paid in lieu of principal and interest.	Land to be free on payment of debt.	If interest not paid, compound interest to be charged.	Land under house to be considered mortgaged and interest to be charged.	Others.
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Poona .	Sirpur .	......	190	52·6	...	2·1	41·5	...	...	...	3·6	...	...	...
,, .	Mawal .	1883-84 to 1885-86 .	677	34·2	57·6	6·4	·1	·2	...	1·1	...	...	...	...
Satara .	Tasgaon .	1881 to 1885 . .	83	19·2	72·2	...	6·0	...	2·4	...	...	...	...	...
Ahmednagar	Rahuri .	1876 to 1879 . .	43	95·3	2·3	...	2·3	...	...	...	...	...	...	...
,, .	Jamkhed .	1882-83 to 1884-85 .	162	43·7	...	8·0	34·5	...	3·7	...	8·6	...	...	1·2
,, .	Akola .	1882-83 to 1884-85 .	411	9·0	87·3	1·9	1·7	...	...	...	...	...	...	...
,, .	Sangamner	1876-77 to 1879-80 .	99	42·4	...	4·0	23·2	3·0	...	...	27·2	...	...	...
,, .	Kopergaon	1877-78 to 1879-80 .	17	64·7	...	...	35·2	...	...	...	...	...	...	...
,, .	Nevasa .	......	121	38·0	...	...	25·6	...	...	...	36·3	...	...	...
Sholapur .	Madha .	......	3	...	...	...	100·0	...	...	...	...	...	...	...
Khandesh .	Savda .	1882-83 to 1884-85 .	911	72·8	4·9	22·1	·1	...	...	...	...	...	...	...
,, .	Chopda .	1884-85 to 1886-87 .	514	79·1	1·3	17·3	...	2·1	...	...	...	...	...	...
Nasik .	Dindori .	1877-78 . . .	2	...	...	...	...	...	...	...	100·0	...	...	...
,, .	Sinnar .	1877-78 to 1878-79 .	21	9·5	...	...	80·9	4·7	...	...	4·7	...	...	...
Bijapur .	Badami .	1876 to 1883 . .	135	32·5	63·7	2·2	...	...	1·4	...	...	...	...	...
,, .	Bagalkot .	1878 to 1882 . .	53	5·6	75·4	9·4	9·4	...	...	...	...	...	...	...
,, .	Hungund .	......	94	13·8	69·1	3·1	5·3	2·1	4·2	...	...	...	...	1·2
Thana .	Khalapur .	1881 to 1886 . .	389	89·7	...	1·8	2·5	1·8	...	3·3	...	0·7	...	...
Kolaba .	Pen .	1880 to 1886 . .	35	14·2	...	...	...	25·7	...	...	...	5·7	54·2	...
Thana .	Karjat .	1881 to 1886 . .	41	87·8	...	4·8	4·8	...	...	2·4	...	...	...	...
,, .	Karjat .	......	527	*89·9	...	·1	3·2	·1	·3	1·3	...	1·3	3·0	1·
		TOTAL .	4,528	57·2	23·2	8·5	5·9	·7	·3	·6	2·0	·2	·7	1·

* In about half of these cases the mortgagee is in possession, and in many of the instances in which he is in possession it is stipulated that he is to have the usufruct of the land in lieu of interest and to pay the Government assessment.

I enquired of all the Subordinate Judges and Mamledars in the nine districts what were the various forms of tenure of mortgage tenants in their charges. The answers show that there is considerable diversity, but they are not sufficiently explicit to enable me to say that particular forms are more prevalent in some places than in others. Some of the forms mentioned are as follows :—

(*a*) The mortgagor tenant pays the mortgagee a share in the produce one-half, two-fifths, or one-third according to agreement.

(*b*) The mortgagor tenant pays the mortgagee a fixed sum in cash.

Very few of the reporting officers give any information as to how the rent in cash or produce is appropriated by the mortgagee. Those who do, generally say that it is taken in lieu of interest.

(*c*) The mortgagee in possession takes the profits in lieu of interest.

(*d*) The mortgagee in possession appropriates the profits to the interest account and, if there is any balance, to reduction of the principal.

(*e*) The mortgagee in possession holds the land for a fixed term in liquidation of principal and interest.

Scarcely any of the reporting officers give any information as to whether the mortgagor or mortgagee pays the assessment.

6. It was probably not intended that I should go minutely into all the subjects discussed by the Deccan Riots Commission, but the history of indebtedness is most important, as past experience must mainly furnish guidance for the future, and as the history given by the Commission is equally applicable to the five other districts, I shall here give a brief summary of it.

"The condition of the rayat as regards his relation to the money-lender when British rule commenced may be summed up as follows :—

"*1st.*—There was a considerable burden of debt and many of the rayats were living in dependence upon the Sawkar, delivering to him their produce and drawing upon him for necessaries.

"*2nd.*—The rayats' property did not offer security for large amounts ; his cattle and the yearly produce of his land being the lenders' security, the mortgage of miras land was rather a means by which the sawkar got a firmer hold upon the produce than upon the land itself, for immoveable property was not sold for debt, and the miras title would have no value for a non-agricultural landlord.

"*3rd.*—Rates of interest were very high and much of the debt consisted in accumulations of interest.

"*4th.*—The causes of indebtedness were chiefly the Revenue system and sometimes expenditure on marriages or such occasions.

"*5th.*—The amount of individual debt was usually moderate.

"*6th.*—The sawkars were usually men of substance, maintaining establishments employed in dunning and looking after debtors. * * * * * * *

"*7th.*—The creditor received little or no assistance from the State in recovering debts, but had great license in private methods of compulsion. * * * * * * *

"During the first period of British rule the burden of debt grew rather than declined before the introduction of regular Courts and procedure.

"In 1827 the first regular procedure for the administration of civil justice was introduced into Bombay Presidency by Regulations II, III, IV, and V * * *. In Regulation IV the cattle and implements necessary for the support of the agricultural debtor were declared exempt from seizure on account of debt. Regulation V* limited the rate of interest recoverable in a Civil Court to 12 per cent. per annum. When the new Courts came into operation, the rayat had no title in his land except in the case of miras tenure, and the revenue demand was still crushing. These circumstances left but little security to the sawkar for debt not speedily realized and the Courts afforded the means for speedy realization. We find accordingly that they soon began to be resorted to * * *.

* Repealed in 1855.

"On the whole it is evident that in this, the second period, under Regulation, the burden of debt was not as yet aggravated to any degree of severity by the operation of the law. This was to be expected, for the rayat generally had no title to his land except that conveyed by the miras tenure, and his agricultural stock and implements were protected from legal seizure. Other points that call for notice in this correspondence† are : *1st*, that the money-lenders are spoken of as the 'village Bania,' 'the village sawkar,' and in similar terms indicating that as yet the long established money-lender of the community was the only sawkar with whom the rayat had to deal. *2nd*, that expenditure on marriages, caste rites, and similar occasions is generally assigned as the cause of indebtedness. *3rd*, that those Districts which at the present time are most debt-ridden furnish the most unfavourable reports. We have seen that about the time when this enquiry‡ was made the period of prosperity which followed the introduction of the Survey and Settlement and of a sounder and more liberal system of revenue in the Deccan, had already commenced. * * * Strong inducements existed for the rayat to increase his agricultural operations, and the sawkar found enhanced security and a ready machinery for recovery to encourage him in loans. We find accordingly in the record relating to this subject from 1850 to 1858, two features which had already become marked characteristics of the relations of sawkar and rayat under the altered conditions of our revenue and judicial systems. These are the growth of small capitalists engaged in money-lending and the unequal operation of our laws to the disadvantage of the rayat. * * * * * * * * * *

† Reports of the Collectors on indebtedness.

‡ Report of Collectors on indebtedness above referred to.

"As another natural result of the enhanced value of agricultural investments caused by the Survey Settlement we find the practice of raising money on mortgage of land gradually making way and private transfer to sawkars occasionally resorted to. Such transfers were doubtless made in liquidation of debt and not for the purpose of raising money as no cultivator would part with his land altogether for such a purpose. It must be presumed, therefore, that the money-lender in such cases compelled the transfer by threat of imprisonment or other alternative having terrors for the debtor. * * * * * *

"Although the property of the money-lending class in land was thus increasing, the sale of occupancies under decree was rare ; this was probably due to several causes. In the first place the people had not acquired full confidence in the title given by the Survey Settlement, probably hardly had confidence as yet in the stability of our rule ; the only land sold was mirás, which was held by a recognized title familiar and reputed to be safe. It was not often the interest of a creditor to sell a debtor out of his holding ; as the rayats' agricultural stock and implements were protected from sale, he could not be pauperised, and was likely to be more productive if left in possession of his land, the creditor securing the fruits of his labour, than he would be as a mere tenant. The sale

of immoveable property for debt was opposed to usage and public opinion, and unless the land was directly made security, the Courts would be reluctant to have it sold whenever the claim might be satisfied by other means more consonant with native usage. * * * * * * *

"Notwithstanding the pressure of debt and the hardship inflicted by the laws upon the rayats as shown in the extracts* alone, there can be little doubt that about 1860 the agricultural classes of the Poona and Ahmednagar districts were on the whole in a far better position than they had been for years. The conditions of agriculture had been favourable; in the former district for nearly 20 and in the latter for nearly 10 years they had enjoyed a fixed assessment at moderate rates, large tracts of waste land had been available for extended industry; not only were ordinary communications and means of transport improved, but the Railway had been brought within easy reach, the construction of this had poured into the district a sum of not less than 20 lakhs in wages of transport and labour; and above all a series of good seasons had brought ample returns to the rayats for their industry. Although the sawkar might have recourse to the Civil Court, there was a possibility of the rayat being able to borrow from another in order to pay him, and the Court would give time; if a decree passed against the rayat, his stock and implements were safe, and his land not in real danger; he might be imprisoned until he signed a new bond, but was not likely to be pauperised.

* Increase of debt suits and of imprisonment for debt.

"The relations of the rayat and sawkar in 1858 being such as we have shown from the contemporary record, in 1859 two enactments passed through the Legislature which have aggravated the mischiefs there complained of. These are the Civil Procedure Code and the Statute of Limitations."

This legislation was shortly followed by the American war causing a temporary inflation of credit, accompanied by an enormous increase of capital seeking investment

* * * * * * * * * *

"Although the high prices of produce during the American war from 1862 to 1865 were balanced for the rayats of the disturbed district by a series of bad seasons, still the rayats drew large profits from the competition for labour by migrating for a time to Poona or Bombay, where the labour available was employed at extravagant rates. * * * * But besides the advantage of high wages, the agricultural population drew a more questionable advantage from their position as landholders. Through the immense stimulus given to the production of cotton and the cheapness of money, agricultural produce and land had attained an extravagant value, and the rayats' powers as a borrower were those of a capitalist rather than a labourer. The following paragraph occurs in a letter of 26th July 1864 from the Government of Bombay to the Government of India on the subject of the high prices then ruling in the Presidency:

> 'There never was a time during the known history of Western India when land suitable to the growth of grain was in greater demand than during the present period of high prices of unskilled labour. It may be said with almost literal truth that not a thousand acres of land which has been cultivated within the memory of man are now to be found uncultivated in the districts of the Deccan and the Konkan, whence the unskilled labour and the grain which feeds it in and about Bombay are mainly drawn.' * * * * * * *

"The increase in value of land is illustrated by the rapid growth of litigation regarding it, and the increase in the rayats' credit is shown by the decrease in the compulsory processes for recovery of debt. Thus though the rayats' land in the disturbed region brought him little actual income during this period of fabulous prices but scanty crops, it nevertheless brought him the fatal gift of almost unlimited credit destined soon again to collapse. * * * * * * * * *

"With the close of the American war in 1865, the flow of capital into the country ceased. Prices of produce did not fall immediately, however, but the season of 1866-67 was one of severe drought and that of 1867-68 of partial failure, and the effect of contracting credit following the stoppage of the flow of capital began to be felt in 1868. Prices fell quickly after 1870-71. * * * * * *

"The effect of the fall of prices * * * was, first to reduce the rayats' power of payment; secondly, to cause creditors to seek recovery of debt by all means in their power or to enhance their security by the conversion of personal debt into mortgage of land; and lastly, check further advances to the rayats."

The Commission then illustrate these conclusions from the returns of the Civil Courts and the Registration and Revenue Departments.

To return to the legislation of 1859, the Commissioners say:

"We now come to one of the most important questions with which we have to deal, viz., the powers with which the law invests the decree-holder. We propose to discuss the subject under the following heads?—(a) what powers are given to the creditor by the law?—(b) are they excessive?—(c) are they abused?

"In order to recover a debt, it is obvious that resort can only be had to the property, present and future, of the debtor and to the labour of the debtor and his family. A law which allows an unlimited resort to all these means of recovery gives the greatest help to the creditor that it is physically possible to give. The law of India appears to be the only modern law which allows such unlimited resort, and we find that under it the debtor and his family are liable in person and property to an extent which is practically unlimited."

"It may be thought that there is no foundation for the somewhat startling statement that the creditor is allowed by our law to recover his debt by the slave labour of his debtor. It is true that the Civil Procedure Code does not in so many words say that the creditor may compel his debtor to work for him as a slave. The words of the law are, 'If the decree be for money it shall be enforced by the imprisonment of the party against whom the decree is made, or by the attachment and sale of his property, or by both if necessary.' In subsequent sections there are one or two sections which apparently limit the powers of imprisonment and sale, which by this

clause are given absolutely without restriction. At first sight this clause does not appear to authorise slavery, but on further consideraton it will be found that it does authorise it. The power to imprison clearly gives the creditor power to compel the debtor to do whatever would be less grievous to bear than imprisonment would be, and undoubtedly most cultivators prefer to be allowded to work in their native village and on their ancestral lands, to being sent to a distant jail, which has to them all the terrors of the unknown. That they may on certain conditions get free, or that the term of imprisonment is not absolutely of unlimited duration and hardship is also as a rule unknown to them. Although their slavery is not directly mentioned in the Codes, it is indirectly declared by giving the creditor practically unlimited power to imprison. * * *

"The only apparent limitation supplied by our Code is that by which the debtor is allowed to obtain release from jail on delivering up all his property. This discharge is, however, only a discharge from imprisonment and that only under the decree in execution of which he was imprisoned. His property is still liable under *that* decree, and he is liable to imprisonment, under any other decree. The fact that, through the whole of this Presidency, only 76 persons out of 1,877 imprisoned, obtained their discharge under these provisions of the Code, shows that they are of little use even as affording partial relief by way of insolvency. This fact is clearly brought out in the statement of one of the rayats examined, who only heard of this means of obtaining his release by the accident of the Judge making a visit of inspection to the jail during his confinement there, hearing his case and informing him of his remedy.

"With reference to the extent to which property is liable, it is not necessary to say much. The law distinctly gives absolutely unlimited power to sell. Section 205 of the Procedure Code says: 'All property whatsoever, moveable and immoveable, belonging to the defendant is liable to attachment and sale in execution of a decree. According to this, then, strictly interpreted, the very clothes on the back of the unfortunate debtor may be sold. There is no reservation of even the simplest necessaries either for himself or for his wife and family. Further, the law allows the creditor not only to strip his debtor bare at the time by selling all that he possesses, but this may be done again and again as soon as the debtor manages to scrape together a few annas' worth of property.

"(*b*) Are the powers excessive? The mere statement of what the power of the creditor is would seem in itself a sufficient answer to the question. The power to utterly ruin and enslave the debtor is a power which clearly no creditor ought to have, and as a fact it was never intended when the Code itself was passed that the creditor should have it. 'The ancient laws of most countries,' says Mill, 'were all severity to the debtor. They invested the creditor with a power of coercion more or less tyrannical, which he might use against his insolvent debtor, either to extort the surrender of hidden property or to obtain satisfaction of a vindictive character, which might console him for the non-payment of the debt. This arbitrary power has extended in some countries, to making the insolvent debtor serve the creditor as his slave; on which plan there were, at least, some grains of common sense, since it might possibly be regarded as a scheme for making him work out the debt by his labour. In England the coercion assumed the milder form of ordinary imprisonment. The one and the other were the barbarous expedient of a rude age, repugnant to justice as well as to humanity.' When we compare the law of India with that of other countries, we find that not one is so oppressive as the Civil Procedure Code in this respect, not even the oldest law in the world, the law of Moses, which allowed the debtor a discharge after serving seven years."

The Commissioners then go on to show how the powers were abused; for example, how decrees satisfied out of Court by judgment-debtors were often executed again; and how extortionate terms were ordinarily extracted from judgment-debtors under threats of imprisonment in execution.

On the change in the law as affecting credit the Commissioners write:

"Another cause of the increase of indebtedness is the facility with which the money-lending class can command the assistance of the law in the recovery of debt, and consequent on that facility an expansion of the rayats' credit, inducing numbers of small capitalists to compete for investments, in loans to the Kunbi. * * * * Whatever facilities were afforded by the law in 1852 have been greatly enhanced by the introduction of the present procedure in 1859, and by the punctual conduct of judicial duties now exacted from the Subordinate Courts while the rayats' credit has been enhanced by the addition of his land and agricultural stock and implements to the security liable for his debts * * * We may add that in the dearth of other industries in this country with a population whose wants embrace little but the merest necessaries, capital which under other conditions would find employment in trade or manufactures, here naturally turns to agricultural investments, and almost the only course open to the clerk or servant who has saved a little money in a village sawkar's employment and desires to earn an independent living, is to set up in the same business himself, preferably in the place where he is already known.

"The enquiries of the Commission have made it clear that the smaller class of sawkars, who are also the most unscrupulous, have increased very considerably during the last ten years and that it has been a common practice for the rayat to borrow from one sawkar to pay another, or to borrow from two or three at a time; a result of this is that in the competition with inferior members of their class, even respectable sawkars are obliged more and more to resort to the methods of swelling the debt and coercing the debtor practised by them."

In regard to the short limitation law the Commissioners point out the usual objections raised to it—that it enables the creditor to extort a new bond for a greater amount than that really due, and to obtain compound interest where simple interest alone was bargained for; and they come to "the conclusion that the reduction of the period of limitation" (from 12 to 13 years in the case of money bonds) "has been the cause of considerable hardship to the debtor."

Act X of 1877 amended by—
Act XII of 1879.
Act XIV of 1882.
Acts VI and VII of 1888.

7. The principal amendments in the Code of Civil Procedure since the date of the Deccan Riots Commission Report are contained in the enactments mentioned in the margin. The following are the most noteworthy changes affecting the present subject.

Under the Code of 1859 two years was the maximum term for which a judgment-debtor could be imprisoned, limited to six months in cases of money decrees not exceeding R600, and to three months if the decree was for R50 or less. By the Act of 1877 the maximum was reduced to six months limited to six weeks in the case of a money decree not exceeding R50. The Court may also now (Act VI of 1888), with certain provisoes, refuse to imprison an arrested debtor on account of his inability to satisfy the decree from poverty or other sufficient cause. A judgment-debtor may also be released from arrest or imprisonment if suffering from any serious illness.

In regard to applications for execution under the earlier law, the Court, after admitting an application, was bound to order execution according to the nature of the application. In 1877 a proviso was added requiring the Court to see that in case of a decree for money the value of the property attached should correspond as nearly as possible with the amount of the decree. In 1888 the arrest of women in execution of money decrees was forbidden, and discretionary power was given to the Court, instead of at once issuing a warrant of arrest, to serve a notice on the judgment-debtor to show cause against his arrest.

Under the Code of 1859, as has been already stated, all the judgment-debtor's property was liable to attachment. By the Act of 1877 the following, among other particulars, were exempted from this liability—necessary wearing apparel of the judgment-debtor, his wife and children; tools of artizans; implements of husbandry and such cattle as may, in the opinion of the Court, be necessary to enable the judgment-debtor to earn his livelihood as an agriculturist; the materials of houses and other buildings belonging to and occupied by agriculturists; the wages of labourers and domestic servants. Seed-grain has been added to the exemptions in 1888.

Instalments.

Since 1859 the Court has had power to decree payment by instalments with or without interest but only in the case of money decrees. The power has been slightly enlarged in 1877 by the Court being authorized, with consent of the decree-holder, to grant instalments, even after the passing of the decree.

Insolvency.

Under the Codes of 1859 and 1877 only a judgment-debtor arrested or imprisoned in execution of a decree for money could apply to be declared an insolvent. By the Act of 1882 the right was extended to a judgment-debtor against whose property an order of attachment has been issued in execution of such a decree. Any holder of such a decree may also apply to have the judgment-debtor declared an insolvent. The effect of discharge under the Code of 1859 was to free the judgment-debtor from arrest under the same decree; but his property was still liable to attachment, unless the decree was for less than R100, and there was no provision for the investigation and settlement of his remaining debts. A regular insolvency procedure was adopted in 1877, and on surrender of all his assets to a Receiver appointed by the Court, a judgment-debtor might be discharged from liability to arrest on account of all the scheduled debts, and from liability to attachment of his property if the aggregate of the scheduled debts did not exceed R200. The Code of 1882 further provided that the Court should in any case absolve the judgment-debtor from liability in respect of scheduled debts if they had been satisfied to the extent of one-third or if 12 years had expired from the order of discharge; and directed that in particular local areas the Collector should take the place of the Receiver as regards immoveable property, following the procedure laid down for him in executing decrees.

Execution of Decrees by Collectors.

Since 1877 the Local Government has been authorised to transfer decrees, directing the sale of immoveable property, to Collectors. Various amendments have since been made. The object in view is to avoid, where possible, the absolute sale of the land, and, where this is impossible, to obtain the best price for the land sold. The provisions of this part of the Code

have been applied to the four districts where the Deccan Agriculturists' Relief Act is in force and to Khandesh, Nasik, and Bijapur.

I shall now mention briefly the principal points in which the Deccan Agriculturists' Relief Act differs from the Civil Procedure Code.

Arrest and Imprisonment.

No agriculturist can be arrested or imprisoned in execution of a decree for money.

Attachment of Property.

No agriculturist's immoveable property, with the exception of standing crops, can be attached or sold in execution of a decree unless it has been specifially mortgaged for the repayment of the debt to which the decree relates, and the security still subsists.

Instalments.

The Court may *at any time* direct that the amount of *any* decree (*e.g.*, in a suit for money, or for redemption or foreclosure or possession of mortgaged property) passed against an agriculturist shall be paid by instalments with or without interest.

Insolvency.

The insolvency provisions have rarely been resorted to by debtors. The Court in case of a decree for any sum less than R50 passed against an agiculturist, on application or of its own motion, if satisfied that the other debts together with such sum do not amount to R50, is empowered to direct payment of such portion as it considers him able to pay, and grant a discharge for the balance. Any agriculturist whose debts amount to R50 or upwards may apply to be declared an insolvent though he has not been arrested, and though no order of attachment has been issued against his property in execution of a decree. Whatever may have been the cause of insolvency, the Court is bound to declare the applicant an insolvent if satisfied that he is in insolvent circumstances. No one but the Nazir of the Court can be appointed Receiver. No immoveable property of the insolvent can vest in the Receiver, but the Court may direct the Collector to take into his possession, for any period not exceeding seven years, any immoveable property to the possession of which the insolvent is entitled, and which in the opinion of the Collector is not required for the support of the insolvent and the members of his family dependent on him, to manage the same for the benefit of the creditors, and during such management the insolvent is incompetent to mortgage, lease, or alienate his property. After distribution of the assets by the Receiver, the insolvent is at once discharged from all liability on account of the scheduled debts, and the creditors can get nothing except their shares in the property managed by the Collector.

Other Matters.

The Court is bound to examine the defendant as a witness.

In the great majority of suits tried by the Subordinate Judges there is no appeal; but the District (or Special) Judge has full powers of revision.

With few exceptions, in all cases to which agriculturists are parties the Court is bound to enquire into the history and merits of the case, to take an account between the parties, notwithstanding any agreement they may have made, and to determine in separate accounts the sum due as principal and interest, the final amount due under both heads together being limited to double the amount shown as due under the principal account. The rate of interest to be allowed is either that agreed on between the parties or such rate as the Court may deem reasonable.

The Court may pass a decree for redemption although the time fixed for payment of the principal has not arrived, or the mortgage-debt has not been completely discharged.

A mortgagor may bring a suit for an account of the principal and interest due by him. Subsequently the Court on the plaintiff's application may pass a decree for redemption, or on the defendant's application, may pass a decree for foreclosure or sale.

Then there are provisions for the appointment of Conciliators, who are to endeavour to effect amicable settlements between intending litigants, and without a certificate from whom, to the effect that conciliation has failed, no suit to which an agriculturist is a party can be instituted. Agreements made before Conciliators, and filed by the Court, take effect as decrees.

Instruments executed by agriculturists, the registration of which is not compulsory under the ordinary registration law, must be registered by especially appointed village registrars.

In suits for the recovery of money when an agriculturist is defendant the period of limitation is extended to 12 years if the suit is founded on a written instrument, and to 6 years in other cases.

8. I shall now proceed to give the facts and statistics which I have been able to collect from the records of the Revenue and other departments relative to the questions formulated in paragraphs 2 and 3 of the Resolution directing this enquiry. It is obvious that some districts are more favoured in soil and climate than others. Although therefore the statistics of the past few years may be excepted to show whether one district or group of districts is more or less prosperous than another, they will not show whether progress or the reverse has been greater in one relatively to the other. I have accordingly endeavoured, where possible, to contrast the statistics of a series of years before the famine (1871-72 to 1875-76) with those of the last five years. I have omitted the statistics of the famine year (1876-77) and subsequent years, partly because they are quite abnormal, and partly because the famine was far more severe in some districts than in others. In the earlier period selected there was one decidedly bad year (1871-72) in all districts except Thana and Ratnagiri. There was no such very unfavourable season in the second period, but in 1882-83 Ahmednagar, Khandesh and Nasik suffered considerably from a plague of locusts, while 1884-85 was a very indifferent season in Ahmednagar and not much better in Sholapur and Bijapur where the crops were only saved by a late fall of rain in December.

Remission, Outstanding, Balances, etc.

9. It is only since 1868-69 that the districts under report have been constituted as they are at present. The only territorial changes worth noticing since then are the transfer of one taluka from Satara to Sholapur in 1875 and the addition of the Peint Taluka to Nasik in 1875. I have taken the figures for remissions from 1868-69 and for outstanding and irrecoverable balances from 1871-72.

Many of the remissions, often of large amount, shown in the revenue accounts are purely nominal. Such are remissions given at the introduction of original or revision survey rates, and on account of land acquired for public purposes. All nominal remissions of this kind must of course be set aside. There may be some hesitation in also excluding remissions due to " accidents " such as fires, floods, and visitations of locusts. Remissions on account of the destruction of rayats' houses by fire generally of very small amount, are more common in Thana and Ratnagiri than elsewhere as might be excepted, all the poorer sort of houses being roofed with thatch. Floods have been very destructive only in Khandesh and Nasik, while locusts have caused great losses in Ahmednagar, Khandesh and Nasik. But destructive floods and visitations of locusts are fortunately very abnormal calamities and it seems advisable, therefore, to leave out of account all remissions attributable to them or to accidental fires. There remain remissions due to failure of crops, poverty, insolvency, death and desertion of rayats, and these are the only remissions that will enter into the following table :—

District.	A.				B.				C.			
	Percentage of average remissions to average revenue demand.				Percentage of average irrecoverable balances written off to average revenue for collection on account of former and current years.				Percentage of average outstanding balances on account of former and current years to average revenue for collection on account of former and current years.			
	1868-69 to 1875-76	1882-83 to 1886-87	Increase.	Decrease.	1871-72 to 1875-76.	1882-83 to 1886-87.	Increase.	Decrease.	1871-72 to 1875-76.	1882-83 to 1886-87.	Increase.	Decrease.
Poona	1·453	·0044	...	1·4486	·406	·177	...	·229	4·780	·492	...	4·288
Satara	·006	·001	...	·005	·080	·016	...	·064	·489	·282	...	·207
Ahmednagar	·814	·133	...	·681	·060	1·254	1·194	...	·875	4·358	3·483	...
Sholapur	1·513	...	...	1·513	·154	·166	·012	...	2·300	·625	...	1·675
4 Districts ...	·821	·038	...	·783	·164	·437	·273	...	1,922	1·569	...	·353
Khandesh	1·811	·044	...	1·767	·291	·035	...	·256	2·952	·079	...	2·873
Nasik	·607	·045	...	·562	·093	3·509	3·416	...	·859	4·705	3·846	...
Thana	·053	·0045	...	·0485	·0444	·0001	...	0443	·225	·118	...	·107
Ratnagiri	·014	·0001	...	·0139	·041	1·193	1·152	...	2·292	4·933	2·641	...
Bijapur	·002	·016	·014	...	·002	·073	·071	...	·080	1·437	1·357	...
5 Districts ...	·812	·029	...	·783	·141	·793	·652	...	1·609	1·678	·069	...

In the matter of remissions all districts, except Bijapur, show an improvement in the later period over the earlier. The extent of improvement is as nearly as possib'e equal in both groups. Under irrecoverable balances written off there is deterioration in both groups, but considerably less in the four districts than in the five. Under outstanding balances the group of four districts has improved and the group of five has deteriorated. The result of the whole is decidedly more favourable to the four districts than to five. In further illustration of this and to show how the different districts have held their places relatively to other, I have prepared the following table, in which I have assigned the figure 9 to the district showing the smallest (best) percentage in each of the columns A, B, C, above, the figure 8 to the next, and so on down to 1.

District.	A 1868-69 to 1875-76.	B 1871-72 to 1875-76.	C 1871-72 to 1875-76.	Total points in earlier period.	A 1882-83 to 1886-87.	B 1882-83 to 1886-87.	C 1882-83 to 1886-87.	Total points in later period.	In later period compared with earlier, and number of points. Gained.	Lost.
Poona	3	1	1	5	6	4	6	16	11	...
Satara	8	5	7	20	7	8	7	22	2	...
Ahmednagar	4	6	5	15	1	2	3	6	...	9
Sholapur	2	3	3	8	9	5	5	19	11	...
4 Districts	17	15	16	48	23	19	21	63	15	...
Khandesh	1	2	2	5	3	7	9	19	14	...
Nasik	5	4	6	15	2	1	2	5	...	10
Thana	6	7	8	21	5	9	8	22	1	...
Ratnagiri	7	8	4	19	8	3	1	12	...	7
Bijapur	9	9	9	27	4	6	4	14	...	13
5 Districts	28	30	29	87	22	26	24	72	...	15

As there are four districts in one group to five in the other, if the two groups showed equally favourable results, the total points should be shared between them in the proportion of 60 to 75. The ratio in the earlier period was, however, 48 to 87, so that the four districts were then well behind the others. The ratio in the second period being 63 to 72, they are now slightly ahead.

The districts arrange themselves as follows according to their positions in the two periods:—

Earlier Period. District.	Points.	Later Period. Districts.	Points.
1. Bijapur	27	1. { Thana	22
2. Thana	21	1. { Satara	22
3. Satara	20	3. { Sholapur	19
4. Ratnagiri	19	3. { Khandesh	19
5. { Ahmednagar	15	5. Poona	16
5. { Nasik	15	6. Bijapur	14
7. Sholapur	8	7. Ratnagiri	12
8. { Poona	5	8. Ahmednagar	6
8. { Khandesh	5	9. Nasik	5

Notices and Compulsory Processes.

10. I have taken the figures for 1882-83 to 1886-87 for the number of notices issued and the number of compulsory processes adopted for the realization of the land revenue.

The notices issued under Section 152 of the Land Revenue Code are shown in the following table :—

District.	Number of notices issued per lakh of Revenue for collection.	Amount per lakh of Revenue for collection in respect of which notices were issued.
		R
Poona	616	7,159
Satara	153	1,702
Ahmednagar	991	14,648
Sholapur	247	6,393
4 Districts	506	7,408
Khandesh	219	2,434
Nasik	509	11,153
Thana	965	8,048
Ratnagiri	1,167	15,230
Bijapur	382	4,807
5 Districts	514	6,594

On the whole there is little difference between the two sets of districts, and as the number of notices issued is a factor of very minor importance for the purpose of the present enquiry, any minute discussion of the figures is unnecessary. The following table shows the compulsory processes :—

Table showing the compulsory processes (per lakh of Revenue for collection) adopted for the realization of the Land Revenue under the various sections of the Land Revenue Code.

District.	Section 157. Arrest and imprisonment.	Section 148. One-fourth penalty.	Section 154. Distraint and sale of moveable property.	Section 155. Sale of immoveable property other than land.	Section 153. Forfeiture and sale of occupancy.	Total number of compulsory processes per lakh of Revenue for collection.	Amount per lakh of Revenue for collection in respect of which compulsory processes were adopted.
1	2	3	4	5	6	7	8
Poona	·01	1·53	·91	·01	·39	2·8	70
Satara	·0	4·55	·32	·03	·12	5·0	75
Ahmednagar	·0	2·55	3·33	·01	6·16	12·0	396
Sholapur	·0	·94	·32	·06	·44	1·7	44
4 Districts	·003	2·61	1·28	·03	1·88	5·8	156
Khandesh	·006	29·32	·59	·04	2·10	32·0	221
Nasik	·0	3·74	1·0	·11	6·90	11·7	223
Thana	·0	15·35	9·76	1·07	1·99	28·1	270
Ratnagiri	·0	44·19	80·31	·02	·0	124·5	913
Bijapur	·0	·17	1·48	·01	2·62	4·3	107
5 Districts	·002	19·81	10·95	·20	2·77	33·7	287
5 Districts minus Ratnagiri.	·002	16·81	2·42	·23	3·11	22·5	209

As only one case of arrest and imprisonment occurred in each group, column 2 may be left out of account. Column 5 also needs no comment, as Thana is the only district which shows an appreciable number of sales of immoveable property other than land. The figures under the other headings show an extraordinary superiority of the group of four districts over the group of five. Ratnagiri presents the anomaly, that not a single occupancy was forfeited and yet other compulsory processes were so very numerous that I think it must be held to show on the whole the worst results of any. Considering it an anomaly I have shown above the results for the five districts excluding Ratnagiri, and compared with these, the results for the group of four districts still show a very marked superiority.

The figures in columns 7 and 8 must be taken as giving a general idea only at the relative positions of the different districts, because they are composed of figures indicating differ-

ent degrees of compulsion, forfeiture of occupancy being a more severe measure than distraint and sale of moveable property and so on. There may be a little doubt as to whether Sholapur or Poona or Satara shows the best results, but there can be no doubt that they are all far ahead of all others. Bijapur shown a lightly better figure than Satara in column 7, but if the component figures be looked to it will be seen to be distinctly inferior as it has 2·62 forfeitures of occupancy compared with ·12 for Satara and ·39 and ·44 for Poona and Sholapur. Bijapur, however, holds the 4th place. For 5th place there is little to choose between Ahmednagar and Nasik. The latter shows better results under distraint and sale of moveable property, but worse results under forfeiture of occupancy and one-fourth penalty. Khandesh might also be bracketed with them, because, although the figure under one-fourth penalty is, in comparison, very unfavourable, those under forfeiture of occupancy and distraint, and sale of moveable property are much better. Thana I place below all three, because although column 6 is in favour of Thana as compared with Nasik and Ahmednagar, the figures in columns 3, 4, 5 are very greatly worse. Ratnagiri, as stated above, is a long way behind. I would arrange the districts, therefore, as follows: Poona, Sholapur, and Satara are well ahead of Bijapur. Then come Ahmednagar, Nasik, and Khandesh about equal. Thana is 8th and Ratnagiri last of all.

There are unfortunately no similar statistics available for any period prior to the introduction of the Land Revenue Code by a comparison with which it might be seen whether the revenue has always been collected with much greater ease in Poona, Sholapur, and Satara than anywhere else. If opinions differ on the point there is no means of testing them by statistics.

Agricultural Stock.

11. If the returns of agricultural stock could be trusted they would afford most valuable evidence of the condition of the peasantry, as a rayat's cattle form the greater part of his capital. I fear, however, that they are quite untrustworthy, except perhaps for the last year or two, and owing to a recent change in the method of compiling them, there are none later than 1885-86 available for comparison with the earlier period. I give the following table for what it is worth, Ratnagiri is omitted, the returns for that district being incomplete. The figures for Sholapur and Satara are affected by the transfer to the former from the latter district of the Malsiras Taluka in 1875 and for Nasik by the addition of the Peint Taluka in 1878:

Increase or decrease per cent. in Agricultural Stock in 1883-84 to 1885-86 compared with 1873-74 to 1875-76.

District.	Bullocks.		Cows.		Female Buffaloes.		Male Buffaloes.		Sheep and Goats.		Riding Carts.		Carts used for carrying loads.	
	Increase.	Decrease.	Increase.	Decrease.	Increase.	Decrease.	Increase.	Decrease.	Increase.	Decrease.	Increase.	Decrease.	Increase.	Decrease.
Poona	3·3	...	...	1·8	...	1·4	...	·2	19·5	...	51·1	...	5·1	...
Satara	...	10·0	...	2·9	43·1	...	...	27·9	...	1·6	160·7	...	32·3	...
Ahmednagar	7·6	...	14·9	...	3·7	...	35·2	...	26·1	...	19·7	...	19·3	...
Sholapur	5·8	...	4·1	...	19·8	...	74·9	...	35·0	...	5·0	...	37·6	...
4 Districts	1·2	...	3·9	...	17·4	...	...	7·2	17·8	...	30·2	...	20·7	...
Khandesh	29·8	...	32·1	...	13·8	...	3·5	...	...	14·0	26·4	...	40·4	...
Nasik	20·0	...	27·7	...	...	6·1	23·2	...	11·9	...	14·0	...	23·1	...
Thana	...	7·7	...	3·5	...	21·7	...	13·7	...	5·8	...	23·7	...	2·2
Bijapur	...	6·5	2·3	...	...	5·4	51·7	...	40·1	...	106·6	...	85·1	...
4 Districts	12·2	...	18·3	...	0·8	...	6·5	...	13·7	...	16·5	...	28·4	...

Excise Revenue.

12. The following table shows the average yearly excise revenue per head of population in 1882-83 to 1886-87 compared with 1871-72 to 1875-76:—

District.	1871-72 to 1875-76.	1882-83 to 1886-87.	Increase.	Per cent. increase.
	R a. p.	R a. p.	R a. p.	
Poona	0 3 3	0 7 5	0 4 2	128
Satara	0 0 6	0 1 2	0 0 8	133
Ahmednagar	0 0 8	0 1 6	0 0 10	125
Sholapur	0 1 7	0 4 2	0 2 7	163
4 Districts	0 1 5	0 3 5	0 2 0	141
Khandesh	0 3 7	0 7 0	0 3 5	95
Nasik	0 1 9	0 3 5	0 1 8	95
Thana	0 8 6	0 14 9	0 6 3	73
Ratnagiri	0 1 0	0 2 6	0 1 6	150
Bijapur	0 2 8	0 3 5	0 0 9	28
5 Districts	0 3 6	0 6 4	2 10	80

The increase of revenue per head has been 141 per cent in the four districts and 80 per cent. in the five districts. The increase in all the four districts is much greater than in any of the five districts except Ratnagiri, which is only surpassed by Sholapur. It is noteworthy that the rate of increase is much the same in districts where the drinking population is small (Satara and Ahmednagar) as in districts where it is comparatively large (Poona and Sholapur) It might argued that in the case of Thana for instance the excise revenue was already very large in the earlier period and therefore such a high rate of increase could not be expected as in the case of districts which started with a smaller revenue. It will be seen, however, that Poona has far outstripped Khandesh which started with rather more revenue per held, similarly for Sholapur and Nasik. The figures, it seems to me, clearly point to the conclusion that compared with the earlier period the drinking population in the four districts have now more money to spend on luxuries than the corresponding classes in the five districts. In other words they are better off.

Income Tax and License Tax.

13. In previous discussions on the effect of the Deccan Agriculturists' Relief Act the license tax returns have been referred to for evidence of the loss suffered by money-lenders from the introduction of the Act. It was inevitable that the dealings of money-lenders should be restricted by the operation of the new law, and in a Government memorandum (Revenue Department No. 8308, dated 12th November 1883) reasons were given for supposing that somewhere between 8 and 15 per cent. of the decrease observed in license tax receipts in the four Deccan Agriculturists' Relief Act districts might be attributed with some probability to the operation of the Act. I give now the collections on account of the license tax and income tax during the last six years. The sum collected in each district in 1882-83 is taken as 100, and the amounts collected in subsequent years are reduced to that standard, the first and last columns show also the actuals :—

District.	1882-83.	1883-84.	1884-85.	1885-86.	1886-87	1887-88.
	R	R	R	R	R	R
Poona	48,125=100	97	96	100	146	155= 74,860
Satara	42,5051=100	87	80	77	99	101= 42,953
Ahmednagar	31,235=100	96	98	94	112	125= 39,121
Sholapur	29,800=100	98	95	92	113	135= 40,511
4 Districts	1,51,665=100	94	92	91	119	130= 1,97,445
Khandesh	84,105=100	97	94	90	107	110=93,158
Nasik	30,725=100	102	105	103	136	121=37,352
Thana	23,810=100	78	79	81	120	126=30,202
Ratnagiri	10,510=100	93	93	93	149	147=15,530
Bijapur	23,735=100	110	114	100	116	133=31,589
5 Districts	1,72,885=100	97	97	93	118	120=2,07,832

In the four years for which the license tax was in force there was a gradual decrease in receipts, slightly more marked in the four Deccan Agriculturists' Relief Act districts than in the others, while the increase, from 119 to 130, under the income tax has been considerably greater in the former than in the latter. The districts arrange themselves as follows according to the percentage increase in 1887-88 compared with 1882-83 :—

1. Poona, 55 per cent.
2. Ratnagiri, 47 per cent.
3. Sholapur, 35 per cent.
4. Bijapur, 33 per cent.
5. Thana, 26 per cent.
6. Ahmednagar, 25 per cent.
7. Nasik, 21 per cent.
8. Khandesh, 10 per cent.
9. Satara, 1 per cent.

That the money-lending business of money-lenders suffered in the four Deccan Agriculturists' Relief Act districts from the introduction of the Act appears unquestionable. That it is still declining is shown by the Village Registration Returns. If, then, their taxable income varies little from that of similar classes in the five districts, it seems obvious that they must be transferring their capital and making corresponding profits in other undertakings.

Revenue from Stamps.

14. The two following tables exhibit in the same manner as for the license tax, the variations in the Revenue from Court Fees and General Stamps in the last six years:

Court Fees.

District.	1882-83.	1883-84.	1884-85.	1885-86.	1886-87.	1887-88.
	R	R	R	R	R	R
Poona	1,14,900=100	107	112	123	115	116=1,33,287
Satara	76,447=100	108	119	127	129	114=87,830
Ahmednagar	57,641=100	112	128	130	135	134=77,459
Sholapur	38,440=100	115	147	139	140	137=53,002
4 Districts	2,87,428=100	109	122	128	126	122=3,51,578
Khandesh	2,30,775=100	96	104	109	134	127=2,95,301
Nasik	1,05,543=100	108	112	104	125	120=1,27,243
Thana	99,689=100	84	87	95	93	97= 96,720
Ratnagiri	90,331=100	101	101	96	97	103= 93,743
Bijapur	31,426=100	108	106	101	130	124= 39,272
5 Districts	5,57,764=100	98	102	103	119	116=6,52,279

General Stamps.

District.	1882-83.	1883-84.	1884-85.	1885-86.	1886-87.	1887-88.
	R	R	R	R	R	R
Poona	71,869 = 100	90	99	110	90	94 = 67,587
Satara	46,427 = 100	72	84	92	87	85 = 39,726
Ahmednagur	35,433 = 100	84	90	99	99	104 = 37,085
Sholapur	30,128 = 106	94	94	91	71	77 = 23,213
4 Districts	1,83,857 = 100	85	93	100	88	91=1,67,611
Khandesh	1,71,345 = 100	101	99	94	107	114 = 1,96,419
Nasik	69,624 = 100	103	103	101	105	109 = 76,314
Thana	42,402 = 100	95	101	99	105	112 = 47,883
Ratnagiri	41,396 = 100	112	111	109	110	117 = 48,637
Bijapur	27,247 = 100	97	102	101	108	115 = 31,539
5 Districts	3,52,014 = 100	102	102	98	107	113 = 4,00,92

The variations in Court-fee revenue correspond in a general way with the variations in the number of suits instituted in the Subordinate Courts. Where there is an exception, then the number of suits decreases and the Court-fee income rises, it must be attributed to the value of suits not bearing a constant ratio to their number, and in special cases, as for instance Satara, to exemptions from payment of Court-fees being discontinued. The variations in the revenue from general stamps in the four Deccan Agriculturists' Relief Act districts correspond with the variations in the number of bonds and instruments of all kinds registered by the village registrars. The figures, therefore, appear to indicate a decrease in borrowing by agriculturists in the four districts, and presumably an increase of borrowing in the others.

Registration.

15. By the Deccan Agriculturists' Relief Act of 1879 *all* instruments executed by agriculturists were required to be registered by village registrars. In districts outside the scope of the Act, only instruments of certain descriptions are required to be registered under the Registration Act. In the annual returns of the village registration system, the numbers of documents of which registration would have been compulsory under the Registration Act are not shown separately from others. Consequently for the years 1880-81 to 1886-87 no returns exist from which a comparison can be made of the progress of registration in those districts where the Deccan Agriculturists' Relief Act is in force, and in those where it is not. Most opportunely, however, for the purpose of this enquiry an alteration in the Deccan Agriculturists' Relief Act was made by Act XXIII of 1886, which enacts that when an agriculturist has to execute an instrument required by Section 17 of the Indian Registration Act, 1877, to be registered under that Act, he must have it registered by the Taluka Sub-Registrar and not by the Village Registrar. The consequence is that the returns for 1887-88 form a basis for

comparison in respect of all documents the registration of which is compulsory under the Registration Act, whether they have been registered in the four Deccan Agriculturists' Relief Act districts or not. In other words, so far as regards documents the registration of which is compulsory under the Registration Act, the system has reverted to what it was before 1880.

In comparing registration statistics it seems to me that an endeavour should be made to arrive at some sort of measure of the total value of all the property that might form the subject of transactions requiring registration. Suppose for instance in village A there are 10,000 acres of occupied land and in village B 5,000 acres all of equal value, and that 1,000 acres are sold in each village in one year although the absolute number of sales is the same, the number in proportion to the saleable land is twice as great in B as in A. Similarly, Khandesh is a large district compared with, say, Sholapur : some measure is required to show how much sales of land in Khandesh should exceed those in Sholapur if the districts are in similar circumstances. The most obvious, and I think the best measure is the assessment of the land represented with sufficient accuracy for the whole of a district by the total land revenue for collection. I propose, therefore, to show the number and value of sales and mortgages of land in proportion to the land revenue. This will have the further advantage of allowing far large variations in the extent of land occupied. Such variations have occurred during the period embraced in the returns from land having been thrown out of cultivation and by the transfer of a taluka from Satara to Sholapur, and the addition of a taluka to Nasik. I presume that for any particular district the number and value of sales of immoveable property other than la nd bears a constant ratio to the number and value of sales of land.

The two following tables show the sales and mortgages of immoveable property of R100 and upwards in the two years preceding the famine, and in 1887-88 :—

Sales of Immoveable property of R100 and upwards.

District.	Year.	Documents, average of 1874-75 to 1875-76. Total of 1887-88.		Land Revenue for collection, average.	Documents per lakh of land revenue for collection.		Per cent. increase of documents per lakh of land revenue for collection in 1887-88 compared with average of 1874-75 to 1875-76.	
		Number.	Value.		Number.	Value.	Number.	Value
			R	R		R		R
Poona . . .	1874-75—1875-76 . .	1,165	5,97,292	11,62,146	100	51,395	77	82
	1887-88 . . .	2,154	11,40,465	12,15,903	177	93,795		
Satara . . .	1874-75—1875-76 . .	1,147	3,65,707	16,06,096	71	22,769	60	60
	1887-88 . . .	1,795	5,71,655	15,62,136	114	36,594		
Ahmednagar .	1874-75—1876-77 . .	663	2,06,533	13,25,500	50	15,581	60	79
	1887-88 . . .	1,263	4,39,918	15,73,594	80	27,956		
Sholapur . .	1874-75—1875-76 . .	802	2,34,273	10,50,073	76	22,310	36	53
	1887-88 . . .	1,105	3,64,302	10,60,796	104	34,342		
4 Districts	1874-75—1875-76 . .	3,778	14,03,805	51,43,816	73	27,291	58	70
	1887-88 . . .	6,317	25,16,340	54,12,429	116	46,491		
Khandesh . .	1874-75—1875-76 . .	1,988	5,58,403	30,06,326	66	18,574	171	198
	1887-88 . . .	5,989	18,56,159	33,43,865	179	55,509		
Nasik . . .	1874-75—1875-76 . .	837	3,00,163	12,00,771	69	24,997	91	78
	1887-88 . . .	1,963	6,62,725	14,87,136	132	44,563		
Thana . .	1874-75—1875-76 . .	1,018	4,09,410	14,12,903	72	28,976	98	134
	1887-88 . . .	1,784	8,40,695	12,39,644	143	67,817		
Ratnagiri . .	1874-75—1875-76 . .	435	2,17,454	8,95,448	48	24,284	127	106
	1887-88 . . .	944	4,32,920	8,64,538	109	50,075		
Bijapur . .	1874-75—1875-76 . .	519	1,25,137	12,38,968	41	10,100	78	88
	1887-88 . . .	974	2,53,079	13,29,254	73	19,039		
5 Districts	1874-75—1875-76 . .	4,798	16,10,568	77,54,418	61	20,769	131	135
	1887-88 . . .	11,654	40,45,578	82,64,437	141	48,951		

Mortgages of Immoveable Property of R100 and upwards.

District.	Year.	Documents, average 1874-75—1875-76. Total of 1887-88.		Documents per lakh of Land Revenue for collection.		Documents per lakh of Land Revenue for collection in 1887-88 compared with average of 1874-75—1875-76.			
						Per cent. Increase.		Per cent. Decrease.	
		Number.	Value.	Number.	Value.	Number.	Value.	Number.	Value.
			R		R		R		R
Poona	1874-75—1875-76	2,805	11,89,917	241	1,02,389	3	3	...	...
	1887-88	3,028	12,87,693	249	1,05,904				
Satara	1874-75—1875-76	2,872	9,89,484	178	61,608	...	...	7	26
	1887-88	2,571	7,03,163	164	45,012				
Ahmednagar	1874-75—1875-76	1,354	4,49,137	102	33,884	...	...	32	32
	1887-88	1,098	3,61,236	69	22,956				
Sholapur	1874-75—1875-76	1,060	3,73,981	100	35,614	...	...	23	29
	1887-88	818	2,67,026	77	25,172				
4 Districts	1874-75—1875-76	8,092	30,02,520	157	58,371	...	...	12	17
	1887-88	7,515	26,19,118	138	48,390				
Khandesh	1874-75—1875-76	3,050	10,49,979	101	34,925	128	97	...	...
	1887-88	7,739	23,06,367	231	68,973				
Nasik	1874-75—1875-76	1,602	5,65,266	133	47,075	28	17	...	...
	1887-88	2,546	8,24,906	171	55,469				
Thana	1874-75—1875-76	1,106	4,76,275	78	33,708	42	48	...	...
	1887-88	1,388	6,18,540	111	49,896				
Ratnagiri	1874-75—1875-76	1,235	5,37,982	137	60,079	76	67	...	...
	1887-88	2,098	8,67,649	242	1,00,359				
Bijapur	1874-75—1875-76	506	2,22,635	40	17,969	87	27	...	...
	1887-88	908	3,05,010	75	22,945				
5 Districts	1874-57—1875 76	7,500	28,52,139	98	36,780	85	61	...	...
	1887-88	14,769	49,22,472	178	59,562				

There has been a great increase in sales in the Deccan Agriculturists' Relief Act districts, but the increase in the five districts has been more than twice as great. In the four districts the increase is greatest in Poona. This, I have no doubt, is attributable to the fact that the registration district of Poona contains a large city and cantonment where many transactions occur in immoveables between non-agriculturists. The increase in agriculturists' transactions has certainly been much less as may be inferred from the village registration statistics following. A similar reason probably accounts for the slight increase of mortgages in Poona. In the three other Deccan Agriculturists' Relief Act districts, there is a very large decrease in mortgages, while in the five districts there is a much greater increase. In both sales and mortgages the contrast between the two groups of districts is very marked.

The following tables show the sales and mortgages of immoveable property compulsory registered under the Registration Act at different periods from 1874-75 to 1887-88 and under the Deccan Agriculturists' Relief Act from 1881-82 to 1886-87 :—

Registration under Act III of 1877.

DISTRICT.	Average of documents per lakh of average annual Land Revenue for collection.							
	1874-75 to 1875-76.		1876-77 to 1879-80.		1880-81 to 1883-84.		1884-85 to 1887-88.	
	Number.	Value.	Number.	Value.	Number.	Value.	Number.	Value.
		R		R		R		R
	Sales of R100 and upwards.							
Poona	100	51,395	110	58,242	81	56,181	116	70,571
Satara	71	22,769	78	24,309	31	12,653	55	19,439
Ahmednagar	50	15,581	53	20,395	37	14,040	51	18,346
Sholapur	76	22,310	103	31,998	49	19,294	66	32,205
4 Districts	73	27,291	84	32,597	47	24,238	70	31,489
Khandesh	66	18,574	67	18,706	97	28,423	149	44,350
Nasik	69	24,997	60	20,206	80	27,502	115	39,734
Thana	72	28,976	90	40,441	106	44,469	128	54,268
Ratnagiri	48	24,284	63	27,089	80	37,464	97	43,514
Bijapur	41	10,100	40	9,991	40	9,676	65	15,735
5 Districts	61	20,769	65	22,355	85	29,129	121	40,377
	Mortgages of R100 and upwards.							
Poona	241	1,02,389	258	1,06,449	75	47,580	128	61,844
Satara	178	61,608	223	71,793	29	12,660	61	19,142
Ahmednagar	102	33,884	100	33,568	25	10,160	39	14,442
Sholapur	100	35,614	142	47,143	37	17,179	48	16,832
4 Districts	157	58,371	182	64,706	40	20,853	68	27,060
Khandesh	101	34,925	108	34,068	158	49,069	219	66,499
Nasik	133	47,075	118	41,152	121	39,493	155	51,444
Thana	78	33,708	86	35,044	99	40,558	109	48,780
Ratnagiri	137	60,079	198	65,224	210	86,285	233	97,559
Bijapur	40	17,969	47	16,118	37	13,100	68	20,465
5 Districts	96	36,780	107	38,499	129	44,608	169	57,217

Increase or Decrease.

District.	Average, 1876-77 to 1879-80, compared with average, 1874-75 to 1875-76.				Average, 1880-81 to 1883-84, compared with average, 1876-77 to 1879-80.				Average, 1884-85 to 1887-88, compared with average, 1880-81 to 1883-84.			
	Per cent. Increase.		Per cent. Decrease.		Per cent. Increase.		Per cent. Decrease.		Per cent. Increase.		Per cent. Decrease.	
	Number.	Value.	Number.	Value.	Number.	Value.	Number.	Value.	Number.	Value.	Number.	Value.
		R		R		R		R		R		R
				Sales of R100 and upwards.								
Poona	10	13	...	...	...	...	26	3	43	25	...	...
Satara	9	6	...	...	...	...	60	47	77	53	...	...
Ahmednagar	6	30	...	...	...	...	30	31	37	30	...	...
Sholapur	35	43	...	...	...	...	49	39	34	20	...	...
4 Districts	15	19	...	...	...	...	44	25	48	29	...	...
Khandesh	1	7/10	...	...	44	51	...	...	53	56	...	...
Nasik	...	...	13	19	33	36	...	...	43	44	...	...
Thana	25	39	...	...	17	9	...	...	20	22	...	...
Ratnagiri	31	11	...	...	27	38	...	...	21	16	...	...
Bijapur	...	...	2	1	...	...	...	3	62	62	...	...
5 Districts	6	7	...	...	38	30	...	...	42	38	...	...
				Mortgages of R100 and upwards.								
Poona	7	3	...	...	...	...	70	55	70	29	...	...
Satara	25	16	...	...	...	...	87	82	11	51	...	...
Ahmednagar	...	...	2	9/10	...	...	75	69	56	42	...	...
Sholapur	42	32	...	...	...	...	73	63	29	...	...	2
4 Districts	15	10	...	...	...	...	78	67	70	29	...	...
Khandesh	7	...	...	2	46	44	...	...	38	35	...	...
Nasik	...	...	11	12	2	...	...	4	28	30	...	...
Thana	10	3	...	...	15	15	...	...	10	20	...	...
Ratnagiri	44	41	...	...	6	1	...	...	10	13	...	...
Bijapur	17	...	...	10	...	...	21	18	83	56	...	...
5 Districts	11	4	...	...	20	15	...	...	31	28	...	...

Registration under the Deccan Agriculturists' Relief Act.

DISTRICT.	AVERAGE NUMBER OF DOCUMENTS PER LAKH OF AVERAGE ANNUAL LAND REVENUE FOR COLLECTION.							
	SALES OF IMMOVEABLE PROPERTY.		MORTGAGES OF IMMOVEABLE PROPERTY.		LEASES OF IMMOVEABLE PROPERTY.		BONDS.	
	1881-82 to 18-3-84.	1884-85 to 1886-87.	1881-82 to 1883-84.	1884-85 to 1886-87.	1881-82 to 1883-84.	1884-85 to 1886-87.	1881-82 to 1883-84.	1884-85 to 1886-87.
Poona . . .	183	228	628	632	1,159	1,027	1,045	777
Satara . . .	193	239	673	579	442	477	600	267
Ahmednagar . .	88	115	168	207	337	355	652	568
Sholapur . . .	128	131	118	94	399	307	355	216
4 Districts .	151	181	425	391	571	535	668	457

DISTRICT.	INCREASE OR DECREASE IN 1884-85 TO 1886-87 COMPARED WITH 1881-82 TO 1883-84.							
	SALES OF IMMOVEABLE PROPERTY.		MORTGAGES OF IMMOVEABLE PROPERTY.		LEASES OF IMMOVEABLE PROPERTY.		BONDS.	
	Per cent. Increase.	Per cent. Decrease.	Per cent. Increase.	Per cent. Decrease.	Per cent. Increase.	Per cent. Decrease.	Per cent. Increase.	Per cent. Decrease.
Poona . . .	24	...	3/5	...	...	11	...	25
Satara . . .	23	...	...	13	8	...	...	55
Ahmednagar . .	30	...	23	...	5	...	...	12
Sholapur . . .	2	...	...	20	...	23	...	39
4 Districts .	19	...	...	8	...	6	...	31

In the table showing the statistics of registration under the Deccan Agriculturists' Relief Act I have omitted the years 1880-81 and 1887-88. The former was the first year of the system, and a very large number of instruments was registered which referred to previous transactions. The number was so excessive, that if the returns of that year were included, an entirely wrong impression would be conveyed. The last year, 1887-88, is omitted because the introduction of the new system, under which the registration of a very large class of Agriculturists' instruments has reverted to the Registration Department under Act III of 1887, deprives the figures for registration under the Deccan Agriculturists' Relief Act in 1887-88 of any value for comparison with previous year. The alteration was made three months before the close of 1886-87, but this will not appreciably effect the results in comparing, as has been done; two periods of three years each.

The following are the principal points to be noted in these tables :—

(*a*) Thana and Ratnagiri show large increases in sales and mortgages throughout.

(*b*) In the period including the famine year and preceding the introduction of the Deccan Agriculturists' Relief Act there was a large increase of sales in the four districts, a scarcely perceptible increase in Khandesh, a great decrease in Nasik, and a slight decrease in Bijapur. Mortgages show a large increase in the four Deccan Agriculturists' Relief Act districts, the only exception being Ahmednagar, where there was a slight decrease. Nasik shows a very decided decrease and Khandesh and Bijapur show increase in numbers but decrease in values; on the whole there was a large increase of sales and mortgages in the four districts, while there was a decided decrease in Nasik and Khandesh, and Bijapur showed little alteration.

(c) In the next period (1880-81 to 1883-84) there was a very large increase of sales in Khandesh and Nasik, Bijapur remaining stationary. Mortgages show a very large increase in Khandesh and a great decrease in Bijapur, Nasik remaining nearly stationary. There are no means of comparing the four Deccan Agriculturists' Relief Act districts with the others in this period, owing to the introduction of the new system of registration for agriculturists' transactions. I have given the figures for these districts in Registration under Act III of 1887, as the large decreases shown in this period are an indication of the proportion of agriculturists' to non-agriculturists' transactions recorded in the returns under the Registration Act.

(d) In the fourth and last period, for which the village Registration Returns are available for comparison there was in the four Deccan Agriculturists' Relief Act districts a considerable increase of sales in agriculturists' transactions except in Sholapur, and a very large increase of sales registered under Act III of 1877. The last mentioned increase, however (and the same applies to mortgages), is exaggerated by agriculturists' transactions of R100 and upwards being included in the figures of 15 months of this period. In Khandesh Nasik, and Bijapur there has been a very much greater increase in sales of all kinds than in agriculturists' sales in the four Deccan Agriculturists' Relief Act districts. As to mortgages two of the four districts show a decrease in agriculturists' transactions and two an increase, on the whole there has been a perceptible decrease. It will be noticed that in Ahemdnagar, where alone there is a large increase in mortgages, the number per lakh of Land Revenue is still far below the corresponding figure for Poona or Satara. In Khandesh, Nasik, and Bijapur, there has been a very great increase in mortgages.

To sum up. In Thana and Ratnagiri sales and mortgages have gone on increasing throughout the period. Before the Deccan Agriculturists' Relief Act there was a decided tendency in the four districts for sales and mortgages to increase, a tendency which was not observable in Khandesh, Nasik, and Bijapur. Since the Act sales and mortgages have increased enormously in Khandesh, Nasik, and Bijapur, the increase in Bijapur being confined to the latest period; while in the four Deccan Agriculturists' Relief Act districts mortgages have greatly decreased, and sales have not increased to nearly the same extent as they have in Khandesh, Nasik, and Bijapur. Further, there is a very large reduction in the number of bonds executed by agriculturists in the four Deccan Agriculturists' Relief Act districts. It is evident from the above figures that the difference observable between the four Deccan Agriculturists' Relief Act districts and the others must in a great measure be attributed to the working of the Deccan Agriculturists' Relief Act as compared with that of the ordinary law, but it would be a mistake, I believe, in some districts at least, to assign the whole of the results to this cause. An increase in sales is feature common to both groups, though much more marked in the five districts under the ordinary law than in others. This is partly due, it seems to me, to the increasing profitableness of agriculture, leading to increased investment of capital in that industry. From the returns in the Presidency Administration Reports I see that the value of exports of Indian produce and manufactures has increased from 2,001 lakhs of rupees in 1875-76 to 3,114 lakhs in 1887-88. This implies a greatly intensified demand for raw produce, increase in value of land, and a larger amount of capital, seeking investment in land. The following table shows the percentage of area in the different districts occupied by wheat and non-food crops, *i.e.*, cotton, oilseeds and others :—

DISTRICT.	Wheat.	Non food Crops.	Total.
Poona	5	9	14
Satara	4	8	12
Ahmednagar	8	9	17
Sholapur	3	15	18
Khandesh	11	44	55
Nasik	14	18	32
Thana	...	5	5
Bijapur	7	26	33

Similar statistics are not available for Ratnagiri, but the proportions must be almost identical with those in Thana. The figures indicate that Khandesh, Nasik, and Bijapur must have benefited much more from the increased export trade than the four Deccan Agriculturists' Relief Act districts. It seems questionable whether Thana and Ratnagiri have derived any direct benefit at all.

So far as an increase in land sales can be attributed to a greater amount of capital seeking to share in the profits of agriculture, it is not an unhealthy sign. At the worst it would mean the transfer of land from the poorer and less enterprising to the richer and more pushing. I should attribute part of the greater increase of sales in Khandesh, Nasik and Bijapur as compared with the four Deccan Agriculturists' Relief Act district to the larger share which the former have enjoyed in the benefits of an increasing export trade. But that part only of the excess is due to this cause at least in Khandesh and Nasik and that other and, as it seems to me, more potent influence are operating in the same direction will appear from what follows.

16. Since 1880 the execution of all decrees directing the sale of immovable property belonging to agriculturists has been transferred to the Collectors under Section 320 of the Civil Procedure Code in the districts marginally noted, besides others not now under report, but returns of the work done are only available for 1884, and subsequent years. In the four Deccan Agriculturists' Relief Act districts such sales are by the Act limited to cases in which immoveable property has been specifically mortgaged for the repayment of the debt of which the decree relates. In the other districts sales of this kind may also be ordered in decrees for money where no immoveable property has been pledged as security for the debt. The following table shows the number of sales in the last four years of immoveable property of all kinds. It also shows for two years, for which alone information is available, the amount of land sold :—

Poona.
Ahmednagar.
Khandesh.
Bijapur.
Satara.
Sholapur.
Nasik.

District.	1884 to 1887. Sales in execution of decrees of immoveable property of all kinds.			1886 to 1887. Sales of lands in execution of decrees.					
	Total number of sales.	Annual average number of sales.	Average number of sales per lakh of average Land Revenue for collection.	Total assessment of land sold.			Annual average assessment of land sold.	Annual average assessment of land sold per lakh of average land revenue for collection.
				R	a.	p.	R	R
Poona	236	59·	4·87	808	7	8	404	33·6
Satara	313	78·25	5·00	963	2	5	481	30·7
Ahmednagar	226	56·5	3·75	1,700	8	1	850	56·0
Sholapur	59	14·75	1·40	415	4	8	207	19·6
Four Districts	834	208·5	3·91	3,887	6	10	1,943	36·4
Khandesh	1,510	377·5	11·47	13,855	10	1	6,942	210·8
Nasik	635	158·75	10·80	4,780	2	2	2,390	162·8
Bijapur	122	30·5	2·36	683	0	0	341	26·5
Three districts	2,267	566·75	9·37	19,348	12	3	9,674	160·0

These figures show how much more severe is the pressure of creditors to realize from the land in Khandesh and Nasik than in the four Deccan Agriculturists' Relief Act districts. In Khandesh 5½ times and in Nasik 4½ times as much land is sold in execution of decrees than in the four Deccan Agriculturists' Relief Act districts. In the latter there has been a considerable decrease in borrowing in the last few years as shown by the fewer bonds and mortgages registered. In Khandesh and Nasik the continued increase of mortgages points to continually increasing borrowing. A mortgage is usually the second step to a sale either through the Civil Court or privately, and the greater number of execution sales coupled with the increase in mortgages is the strongest evidence that a large part of the private sales recorded by the Registration Department is due to an increasing burden of agricultural debt. If any confirmation were wanted it is supplied by the following figures obtained from the Subordinate Judges

showing an extraordinary excess of suits against agriculturists in Khandesh, Nasik, Thana and Ratnagiri as compared with the four Deccan Agriculturists' Relief Act districts :—

District.	Years.	Average annual number of suits against agriculturists per lakh of average annual land revenue for collection.
Poona	1884 to 1887	195
Satara	"	174
Ahmednagar	"	190
Sholapur	"	69
4 Districts	......	163
Khandesh	1884 to 1887	292
Nasik	"	328
Thana	"	287
Ratnagiri	"	343
Bijapur	"	80
5 Districts	......	254

As with the Registration Statistics I have shown the number of suits per lakh of land revenue. The assessment of a rayat's land is a fair measure of the whole value of his estate, and the land revenue of a district is similarly a fair measure of the entire value of property which may be the subject of litiagtion where agriculturists are concerned.

There are no returns available showing separately the number of sales of immoveable property belonging to agriculturists in Thana and Ratnagiri, but a solution of the question whether land sales are proportionately more or less numerous in these districts than elsewhere may be arrived at indirectly.

I take the figures in the following tables from the returns of the Subordinate Judges, for the same years as information is availabel from the Collectors' returns of sales in execution. The first table shows the average annual number of sales of immoveable property of all kinds per lakh of average land revenue in four districts in 1884 to 1887 :—

Khandesh	40·5
Nasik	34·7
Thana	35·0
Ratnagiri	52·0

Now if the ratio of suits against agriculturists to suits of all kinds was the same in Thana and Ratnagiri as in Khandesh and Nasik, this table would show that sales of immoveable property of agriculturists in Thana were about the same as in Nasik and rather less than in Khandesh, and much more numerous in Ratnagiri than in either Khandesh or Nasik. The true ratio is shown in the following table :—

District.	Years.	Total number of suits instituted.	Total suits instituted against agriculturists.	Percentage of suits instituted against agriculturists to total suits instituted.
Khandesh	1884 to 1887	94,206	38,507	40·8
Nasik	"	42,328	19,277	45·5
Thana	"	23,268	11,535	49·5
Ratnagiri	"	23,980	12,095	50·4

Taking the two tables together, there are in Thana 35 sales of immoveable property to 40·5 in Khandesh. But agriculturists' suits in Thana form 49·5 per cent. of the whole against 40·8 per cent. in Khandesh. Therefore sales of agriculturists' immoveable property are 17·3 in Thana against 16·5 in Khandesh. The difference is greater between Thana and

Nasik and much greater between Ratnagiri and either Khandesh or Nasik. The calculation is made on the assumption that in all four districts the ratio of suits instituted in which an agriculturist is defendant to total number of suits instituted is approximately the same as the ratio of execution sales of agriculturists' immoveable property to total execution sales of immoveable property. The proportion, however, of execution sales of agriculturists' immoveable property to total execution sales of immoveable property is probably considerably less in Khandesh and Nasik than in Thana and Ratnagiri, because in the former districts sales of agriculturists' immoveable property are carried out through the Collectors. The difference, therefore, between Thana and Ratnagiri on the one hand and Khandesh and Nasik on the other is really greater than is indicated by the figures in the tables just given. It may safely be concluded that execution sales of agriculturists' immoveable property are much more common in the two former than in the two latter districts, and therefore very much more numerous than in the four Deccan Agriculturists' Relief Act districts.

District.	Execution sales of agriculturists' immoveable property per lakh of land revenue.	
	Actual.	Calculated as in this para.
Khandesh . .	11·4	17.3
Nasik . . .	10·8	15·7

The following are the conclusions I draw from the foregoing statistics, as regards Khandesh, Nasik, Thana, and Ratnagiri compared with the four Deccan Agriculturists' Relief Act districts. In the first four districts there has been a continually increasing burden of debt due by agriculturists. This is in all probability partly attributable, in Khandesh and Nasik, to a rapidly expanding export trade, leading to increased value of land, enhanced credit, and proportionately increased borrowing. Provident cultivators must have benefited greatly by the increasing demand for raw produce. The improvident and embarrassed have probably derived little benefit, their sawkars reaping most of the profit. With increased borrowing there has been in all four districts an increased pressure of creditors to realize from the land, both by private sales and execution sales through the Courts. In the four Deccan Agriculturists' Relief Act districts there has been an increase of sales but to a much less extent than in the other four districts. There has been a great diminution in borrowing, showing that the actual cultivators are deriving much more benefit from the increasing export trade, in proportion to the exportable produce they grow, than is the case elsewhere. Litigation is much less, and Court sales of land comparatively few.

Bijapur is quite an exceptional district. Litigation in which agriculturists are concerned is insignificant as compared with other districts. Sales of land in execution of decrees are few as compared even with the four Deccan Agriculturists' Relief Act districts. Mortgages and sales are fewer than in any other district and much fewer than in most. There is no such class of grasping money-lenders as the Marwaris of the Deccan and Khandesh. To what then must be attributed the extraordinary increase in sales and mortgages of land in the last few years, accompanied by a decrease in litigation in which agriculturists are concerned? I believe the main cause is to be found in the opening up of the district by the Railway. Mr. Ebden, the Collector, writes to me:

"I am inclined to think the increase shown in the registration returns is due to two causes principally—

"1. A growing appreciation of the advantages of registration.

"2. An actual increase in the transactions due to the advancing prosperity of the district.

"*Kaladgi.*—Bijapur has till the last few years been a notoriously isolated and sleepy district. The year 1887-88 which you select for comparison with 1874-80 is a year three years subsequent to the opening of the railway and to the commencement of a great change in the relations between the rayat and the merchant. The district is thronged now with the agents of all the principal dealers, and the rayat finds himself in direct communication with a far more extensive market than ever before. All this is helping to wake him up. Capital is coming in and with it comes its influence on transactions of every kind including the shifting of landed property. I am not inclined to attribute the matter to the grasping sawkars."

The last sentence is in reference to the statements (quoted in another part of this report from the Gazetteer of the district, which do not seem to be altogether substantiated by the statistics I have given.

As regards sales of land I should attribute their sudden and great increase, as Mr. Ebden does, to increased profits of agriculture attracting more capital to land investments. As to mortgages I am doubtful. The increased value of land must have raised the rayat's credit and on the analogy of what has ensued in similar circumstances in the Deccan, increased credit has probably resulted in greater borrowing and spending. Lending on mortgage is not ordinarily an investment of capital seeking profit from agriculture. It may be so indirecy, when the object of the lender is to get the borrower involved and eventually force a sale. It

is the improvident abuse of increased credit which is, I think, to be feared in Bijapur unless the rayats of that district are of much more thrifty temperament than they are elsewhere. It might be conjectured that the extraordinary increase in mortgages is perhaps due to land-owners raising large amounts for spending on the permanent improvement of their holdings, but rayats are everywhere conservative, and it seems to me extremely improbable that agricultural enterprise should make such a very sudden advance in this direction.

Agrarian Crime.

17. I should have liked to have obtained statistics of agrarian crime in the nine districts, but I feared that great trouble would be involved in selecting such cases only as would properly come under that designation and the selection when made would probably not be very trustworthy. I accordingly asked the District Superintendents of Police for a statement of all offences, under certain headings committed against money-lenders in the years 1883 to 1887 without reference to the fact whether the crimes were agrarian or not. The following table shows the number of such offences per 100,000 of the male agriculturist population :—

District.	Murder.	Culpable Homicide.	Grievous Hurt.	Rioting and unlawful assembly.	Dacoity.	Robbery.	House-breaking and theft.	Mischief by fire.	Criminal trespass.	Obstruction and resistance of Civil Court process.
Poona . . .	·115	...	...	·230	·115	·808	3·117	...	7·159	·346
Satara . . .	·165	·082	·331	·580	...	·414	12·854	1·243	25·377	·580
Ahmednagar . .	·121	·242	·363	·363	...	·242	17·833	·970	5·944	·242
Sholapur . .	...	...	·296	·296	...	14·103	1·336	...	6·680	·296
4 Districts .	·112	·084	·252	·392	·028	3·053	9·468	·644	12·942	·392
Khandesh . .	...	...	·073	·146	...	·440	1·834	·293	·954	·293
Nasik . . .	·241	·362	1·569	1·689	...	·844	9·897	9·414	8·931	2·655
Thana . . .	·097	...	·293	...	...	·097	·880	·195	18·392	4·011
Ratnagiri . .	...	...	...	...	...	...	...	...	·393	1·672
Bijapur . .	...	...	...	·120	...	1·572	24·675	·846	1·935	·362
5 Districs .	·059	·059	·336	·336	...	·533	6·328	1·799	5·834	1·720

If points be assigned to every district according to the amount of crime shown under each heading : that is, if the district with the least amount of crime be assigned the figure 1, the next 2, and so on, the following is the resulting aggregate of the figures under all headings; where several districts are equal the points are distributed between them, *e.g.*, if three are equal for first place, they are assigned two points each, the average of (1 + 2 + 3) :—

District.	Points.	District.	Points.
1 Ratnagiri	26·	6 Poona	48·5
2 Khandesh	36·5	7 Ahmednagar	57·5
3 { Sholapur	44·5	8 Satara	68·5
3 { Thana	44·5	9 Nasik	77·5
5 Bijapur	46·5		

I have no similar information for a period prior to the Deccan Agriculturists' Relief Act, and without this it is impossible to say whether the relative positions of districts have altered since then. The four Deccan Agriculturists' Relief Act districts, as a group, show worse results than the other five; but Sholapur, which is equal with Thana, is better than Bijapur, while Satara, which is much the worst of the four districts, is far ahead of Nasik. The second table gives only a general idea of the whole. It will be noticed, for instance, if Satara and Nasik be compared throughout the first table, that Nasik is much worse than the second table would indicate. The extraordinary prevalence of arson in Nasik appears to me to be strong

evidence of a very unsatisfactory state of relations between sawkars and their clients. The large number of cases of criminal trespass are no doubt due to disputes about land, many of which ought properly to be taken to the Civil Courts. As regards obstruction and resistance to Civil Court processes, I know from my own experience that such cases were formerly very common. The change in the law exempting certain descriptions of property from attachment must have operated in greatly reducing their frequency. Under this heading the table shows that the four Deccan Agriculturists' Relief Act districts, where the exemption is more extensive than elsewhere, compare favourably with the others. It seems extraordinary that in Ratnagiri not a single offence, except under criminal trespass, should have been committed against a money-lender in five years. The District Superintendent of Police, however, who has had some years' experience of the district, fully bears out the statement in the Gazetteer that agrarian crime is almost unknown.

I may here appropriately mention a piece of evidence from my own experience. I served as Assistant Collector in the Ahmednagar District from 1874 to 1878. Before and after the riots of 1875 there was an intensely bitter feeling between the peasantry and their sawkars. The subject was an engrossing topic of discussion with every Government officer who was brought in contact with the people. I returned to the district in 1883 and have served in it for five years as Forest Settlement Officer, visiting every part of it. The change since former times is very great. The feeling of exasperation and hatred which in 1874 and 1875 raised a universal chorus of execration against the oppression and extortion of the money-lenders has entirely died out. I do not mean to imply that sawkars and rayats now contrive to live without subject for contention. If one goes in search of information one can still hear pitiful tales of rayats over-reached by money-lenders and *vice versâ*, but their grievances are not obtruded on one's notice, and the general result is that peace has taken the place of discord.

18. At the commencement of this enquiry I sent a set of questions to all Subordinate Judges and Mamledars in the nine districts, and I shall now give the substance of such of their answers as have not been referred to elsewhere.

(*a*) Have agriculturists, who have moveable property, not exempt from attachment, *e.g.*, milch buffaloes, cows, sheep, any difficulty in borrowing money up to the value of such property, whether on pledge of the property, or not?

Substance of answer from the four Deccan Agriculturists' Relief Act districts.—Loans on the security of live stock not exempt from attachment are very seldom made, as the security is considered very precarious. The Deccan Agriculturists' Relief Act has made it much more difficult for a rayat to borrow, as there is so little of his property that can be attached. But a man who has property not exempt from attachment is generally a man of credit and can raise a loan without pledging immoveable property.

Five Districts.—Live stock is regarded as a precarious security and is very rarely taken in pledge. But rayats who have such property have no difficulty in borrowing unless they are bad characters.

(*b*) Have agriculturists, who can give no other security besides land, any difficulty in borrowing money on mortgage of the land?

Four Districts.—The Mamledars of Ahmednagar and Sholapur say that there is difficulty, otherwise the prevalent opinion is that usually there is little difficulty. But it is less easy to borrow money on mortgage now, than formerly, on account of the provisions regarding redemption suits in the Deccan Agriculturists' Relief Act.

Five Districts.—There is no difficulty, except to Khoti tenants in Ratnagiri, and one Subordinate Judge says that even they find no difficulty though their tenant right is not transferable; but this opinion is exceptional. The Subordinate Judge of Murbad in Thana says that there is more difficulty now than formerly as the sawkars fear the introduction of the Deccan Agriculturists' Relief Act.

(*c*) Is it customary for money-lenders to lend money to poor cultivators on the personal security only of well-to-do cultivators?

Four Districts.—Such transactions are not common.

Five Districts.—It is customary, and the custom is very prevalent in some parts of Ratnagiri. It is not very common in Bijapur.

(*d*) Since 1879 has the number of money-lenders been increasing or decreasing? If so, in what class has it been increasing or decreasing, and what are the reasons?

Four Districts.—There has been a great decrease in money-lenders trading on borrowed capital among Marwaris, Gujaratis and Brahmins. Some agriculturists are now engaging in the business.

Five Districts, Khandesh.—One Subordinate Judge (Bhadgaon) says the number of petty sawkars has increased. Another says that lending to agriculturists has decreased slightly owing to fear of the introduction of the Deccan Agriculturists' Relief Act. An increase among agriculturist sawkars is noted in several places. Otherwise no change is said to be observable. On the other hand, eleven out of sixteen Mamledars say there is an increase among small money-lenders, Marwaris, Gujaratis, etc., The other Mamledars say there is no change.

Nasik.—Two of the Subordinate Judges say there is no change. Two others say that petty sawkars trading on borrowed capital are decreasing owing to the increasing poverty of the rayats and the impossibility of realising. The preponderance of opinion among the Mamledars is that the number of sawkars of the Brahmin, Marwari, and Gujarat Wani castes is increasing owing to increased population, bad seasons, and consequent need of more loans by the rayats.

Thana.—The majority of the Subordinate Judges say that the number of money-lenders is decreasing owing to the threatened introduction of the Deccan Agriculturists' Relief Act, the modifications in the law made since 1877, making it more difficult for creditors to realise, and the fact that the sawkars have already got a great deal of the land into their own hands. Seven of eleven Mamledars say that the number of sawkars is increasing among Parsis, Gujaratis, and Marwaris, because they can find no other means of investing their money.

Ratnagiri.—Four of the Subordinate Judges and two Mamledars say there is no change. One Subordinate Judge says that petty sawkars trading on borrowed capital are decreasing owing to the competition of capital-seeking investment and consequent low rate of interest. Two Subordinate Judges say money-lenders are increasing. Of the remaining Mamledars some say that money-lenders are increasing among Brahmins, Parsis, and Mahomedans, and the rest say that money-lending is increasing owing to bad seasons.

Bijapur.—There is a difference of opinion. The majority think that money-lenders are decreasing in number as the Railway has brought merchants into the district who buy direct from the rayats without the sawkars' intervention. Others say that money-lenders are increasing among Marwaris, Lingayets, and Raddis, who are just beginning to realise the large profits that can be made on small loans.

(*e*) Are debtors and creditors on good or bad terms? Are their relations those of confidence or mistrust?

Four Districts.—Opinions very, but the majority think they are not on good terms and that their relations are more of mistrust than of confidence. One Subordinate Judge says there is not the bitter animosity that existed before the Deccan Agriculturists' Relief Act.

Five Districts.—There is much diversity of opinion. Some say they are on good terms, and their relations are those of confidence; others say they are on good terms so long as the debtor keeps paying, or till disputes arise, or that their relations begin in amity and end in animosity. The Subordinate Judge of Sinnar in Nasik mentions a village where the rayats have boycotted the sawkars and no sawkar or bailiff is allowed to enter the village.

(*f*) Are cultivators more or less in debt than they were in 1879? In either case to what causes do you attribute the result?

Four Districts.—They are less in debt. This is due to the relief afforded by the Act, to the indirect operation of the Act rendering borrowing more difficult, and to the absence of famine.

Five Districts.—The great preponderance of opinion is that they are more in debt, except in Bijapur. The causes assigned are in Khandesh bad seasons and extravagance; in Nasik bad seasons and diminished fertility of the soil; in Thana bad seasons, dearer liquor, increased population, forest laws, marriage expenses, and the sawkars getting the rayats more into their power; in Ratnagiri bad seasons, increased population, and loss of cattle. In Bijapur the all but unanimous opinion is that they are less in debt, because in 1879 the rayats had been borrowing to replace cattle lost in the famine. Since then the Railway has been opened, which has enabled them to dispose of their produce at once at good prices, which they could not do before.

(*g*) Do money-lenders ever take a deed of sale of land as security for a loan, on the understanding that the land shall be re-transferred to the cultivator on repayment of the debt? If so, is there any risk to the borrower in a transaction of this kind? Cite cases if you think there is.

Four Districts.—Such transactions certainly occur. Some Mamledars say they are common. Cases have come before the Courts. To what extent they are prevalent cannot be determined. They are generally regarded as risky. Some Mamledars say that instances both of the honesty and dishonesty of creditors have occurred, but no particulars are given. The Subordinate Judge of Vita in the Satara District examined the books of the Sub-Registrar of Khanapur from November 1887 to October 1888. He found eleven sales of land and nine sales of other immoveable property which were immediately followed on the same date by the lease of the property to the vendors. The vendees were mostly professional money-lenders, and the rents represented a fair amount of interest on the purchase-money. In these circumstances, the Subordinate Judge thinks that there was probably a verbal understanding about a re-sale in most of these cases. This is most likely, especially considering what he found in the same Sub-Registrar's Office—"that lands belonging to agriculturists which had been previously sold by them to procure money were re-sold to them for the consideration mentioned in their original conveyances in eight cases during the eleven months from January 1888 to November 1888.

Five Districts.—Such transactions occur in all districts except Ratnagiri, but are uncommon. The Mamledars seem to think they are more frequent than the Subordinate Judges. Such transactions are risky. The Subordinate Judge of Nandurbar in Khandesh says they are common there and not risky as the creditors do not want the land.

(*h*) Is it customary for rayats to take their produce themselves to market for sale, or is it customary for them to hand over the produce to their sawkars? If both customs exist, is either becoming more marked than it was, and what are the reasons?

Nine Districts.—The substance of what the Subordinate Judges say is as follows. Generally speaking, it is customary for rayats to sell their produce themselves. Where both customs exist that of the rayat selling his produce himself is becoming more prevalent. A great change is noted in this respect in Satara also by the Kopargaon Subordinate Judge for his sub-division in Ahmednagar. The Nandurbar Subordinate Judge says that the Bhils in West Khandesh mostly still hand over their produce to their sawkars. The Subordinate Judge of Erandol (Khandesh) says that, except among Gujar Kunbis, who are thriving and prosperous, it is customary for rayats to hand over their produce to their sawkars. The Subordinate Judge of Bhadgaon (Khandesh) says that all indebted rayats do so. In Nasik a similar remark is made about indebted rayats; it is also said that in the neighbourhood of the Railway rayats sell directly to dealers much more than formerly. In Poona, Ahmednagar, and Thana some say that if a rayat has taken advances of grain he repays his sawkar at harvest and sells the rest of his produce himself. In Ratnagiri the common remark is if there is any surplus, the rayat sells it himself.

The statements of the Mamledars in the four districts are much the same as those of the Subordinate Judges, that is, the rayat usually sells his produce himself, and the custom of handing over to his sawkar is becoming much less common. In five talukas of Khandesh and nearly the whole of Nasik the Mamledars say it is becoming more common for rayats to hand over their produce to their sawkars. This is attributed to their increased indebtedness putting them more in the sawkar's power. Mr. Fraser, 2nd Assistant Collector of Nasik, writes: "In the dangi parts the grain is almost invariably disposed of to the sawkar, in other places, only if the rayat is very much in debt, and the sawkar seizes his share before it leaves the thrashing floor." In Bijapur it is noted that the custom for the rayats to sell their produce themselves has become much more common, owing to the influence of the Railway. In Thana and Ratnagiri the Mamledar's reports do not differ materially from the Subordinate Judge's.

(*i*) Are rayats living in better or worse style than they did before 1876? Do they eat more or better food? Do they and their families wear better or worse clothes, or more or less ornaments, ordinarily or on holidays? Do they spend more or less money in going to Jattras? Do they spend more or less money on marriages and other ceremonies?

Four Districts.—Some say there is no change, but the preponderance of opinion is that they are living in better style. As to details there is considerable diversity. A few Mamledars say they have better food: a more common remark is that they wear better clothes. Except in two or three places they do not wear ornaments, or the reporting officers do not report on the subjects. From ten or twelve talukas they are reported to spend more money on Jattras or marriages. Only one Mamledar says they are living in worse style. The reports from Ahmednagar and Sholapur are less favourable than from Satara and Poona.

Five Districts, Khandesh.—The majority of the Subordinate Judges say the rayats are living in better style. The Subordinate Judge of Erandol says they are living in worse style. The Subordinate Judge of Bhadgaon says that the well-to-do are better off than formerly and that the indebted are worse off. Six Mamledars say they are living in better style, four say in worse style, and six say there is no change. The opinions about food are similarly divided, but there is a decided preponderance of opinion that they wear better clothes. A minority say there is more expenditure on Jattras and marriages, and the rest say there is no change. Very little information is given about ornaments in this or any other district.

Nasik.—The preponderance of opinion among Subordinate Judges is that there has been deterioration in all respects. Eight out of eleven Mamledars say they are living in worse style. None say they are living in better style. The same remarks apply to food, but only four say they are wearing worse clothes. There is no change as to Jattras, and as to marriage expenditure half of them say there is no change and the remainder either that there is more expenditure than formerly or more than can be afforded.

Thana.—It is the almost unanimous opinion of the Subordinate Judges that the rayats are living in better style, that they wear better clothes and more ornaments of trifling value. Opinions differ about food, Jattras, and marriages. Among Mamledars opinions are divided in much the same proportions as in Khandesh as to style of living and food. About one-third of the Mamledars say they wear better clothes. As regards Jattras and marriages there is on the whole little change.

Ratnagiri.—The opinion of the Subordinate Judges is that there is little change; where there is any it is in the direction of greater display without substantial improvement. Among Mamledars the great preponderance of opinion is that rayats are living in worse style. There is little change in food, but nearly half report some improvement in dress. Under Jattras and marriages there is little change.

Bijapur.—Half of the reporting officers say there is no change in style of living and half say there is improvement. A majority say there is improvement in regard to food and clothes and little change as regards Jattras and marriages.

(*j*) Have labourers always sufficient employment? Do any of them leave their homes at certain seasons of the year to work elsewhere?

Nine Districts.—There is some internal migration in Khandesh, Sholapur, and Bijapur. Elsewhere after harvest labourers in more or less numbers go to other places for employment. I infer from the replies of the reporting officers that except in Ratnagiri there are very few localities, if any, from which labourers are forced to leave their homes in search of employment, but that they generally do so for the sake of better wages than they could earn at home.

(*k*) Do more or fewer sawkars than formerly cultivate their land themselves? Do they spend more or less money in improving their land?

Four Districts.—No very decided change is observable. But more sawkars do cultivate their land, chiefly those whose money-lending business has been curtailed, or those who belong to cultivating castes. A little more money is spent on improvements.

Five Districts.—In Bijapur there is a consensus of opinion that more sawkars than formerly cultivate their land themselves and spend more money on improvements. This is also the case in parts of Khandesh, Nasik, Thana, and Ratnagiri.

19. It will be remembered that in 1875 the Deccan Riots Commission collected statistics of indebtedness in 12 villages of the Ahmednagar District, full details of which are given in Appendix C of their Report. It occurred to me that if a similar enquiry in the same villages were made now, and information also obtained as to the subsequent history of the debts of 1875, the results would furnish valuable evidence of the working of the Deccan Agriculturists' Relief Act. I shall first give the results of the enquiry, which I made personally, into the history of the debts.

I found at once that in cases of dispute, I must consistently adopt throughout either the creditors' or debtors' statements, and for obvious reasons I gave the preference to the creditors. The following tables therefore are entirely based on information supplied by creditors.

In 1875 the debts in the 12 villages amounted to R1,03,568 on personal security and R67,265 on mortgage of land. But two deductions should be made from these figures before dealing with the rest. The first of these is the entire debt due by Ghargaon in 1875. In most villages where riots occurred in that year debtors passed fresh bonds to replace those that had been destroyed, but in Ghargaon they did not. The villagers with a few worthy exceptions repudiated their unsecured debts, and the sawkars lost nearly all their advances that were not secured by mortgage, and made no attempt to recover them. I tried the Ghargaon rioters myself, and the only special feature about the case was that the Police Patel, who was hopelessly embarrassed, was the ringleader. Besides being severely punished magisterially, he was dismissed from office and his watan attached during his lifetime. I conjecture that the villagers thought they had suffered enough vicariously through their Patel, and excused themselves from renewing their obligations. But however that may be, it would obviously vitiate the evidence as to the working of the law, to start with figures including a large amount of debt which was repudiated long before the law came into force. I found that a few small sums had been similarly repudiated elsewhere, but they are of too small amount to affect the general result appreciably. The second amount to be deducted is a sum of R9,251, which was due in 1875 and is still owing by two Kulkarnis of Supa, who between them hold 13 acres of land. The men are not really agriculturists. The money was borrowed, I understand, for litigation, and it forms over 11 per cent. of the entire unsecured debt, so that it seems advisable to leave it out of account altogether.

There is a slight discrepancy between these figures and those given in the Deccan Riots Commission Report due to some trifling errors in the latter which have been corrected.

Allowing for these deductions the following tables show the results of my enquiries :—

	On personal security.	On mortgage of land.	Percentage. On personal security.	Percentage. On mortgage of land.
	R a. p.	R a. p.		
Debt in 1875	73,533 3 4	62,021 1 0	...	...
of which—Paid off	40,813 9 0	36,680 9 0	55·50	59·14
Time-barred	18,958 9 8	2,500 0 0	25·78	4·03
Still owing	5,192 4 2	17,624 0 0	7·06	28·41
Unaccounted for	8,568 12 6	5,216 8 0	11·65	8·41

The amount shown as "unaccounted for" represents the debts as regards which, for one reason or other, I was unable to examine the creditors or as to the history of which they professed ignorance. Nearly half of it was due to one sawkar of Pimpalgaon Pisa, who died 5 or 6 years ago without leaving heirs. Deducting the sum unaccounted for from the amount of the original debt, the following table shows what has become of all the debt that I have been able to account for :—

	On personal security.	On mortgage of land.	Percentage. On personal security.	Percentage. On mortgage of land.
	R a. p.	R a. p.		
Debts in 1875	64,964 6 10	56,804 9 0	...	...
of which—*Paid off*	40,813 9 0	36,680 9 0	62·82	64·57
Time-barred	18,958 9 8	2,500 0 0	29·18	4·40
Still owing	5,192 4 2	17,624 0 0	7·99	31·02

The methods of payment have been very various. Standing crops have often been given in satisfaction. In one or two villages I found it a common practice for the debtor to hand over land to the creditor for various terms varying from 5 to 27 years. In such cases I have entered as paid off a sum proportioned to the number of years of the term that have expired, and have shown the balance as still owing. In a few cases the sawkars said they had given a remission in consideration of being paid the balance at once. These I have entered as paid

in full. In short, "paid off" means that the debts have been settled somehow to the satisfaction of the creditors.

Under the heading "time-barred," I have included all debts which cannot now be realised. For instance, the secured debt shown as time-barred (R2,500) is no longer realizable, chiefly for two reasons. Either the mortgaged land has been resigned by the occupant to Government or has been sold for arrears of land revenue.

If the debtors' statements had been accepted the amounts entered as time-barred and still owing would have been much smaller. In one village (Walwane) where I made tolerably full notes of the debtors' statements they allege that out of R1,856 of unsecured debt, which I have shown as time-barred, they have paid R1,100 or 59 per cent. On the whole, however, I am inclined to think the amount alleged by the creditors to be time-barred is not very greatly exaggerated. I may mention here that under the head "unaccounted for" are entered some debts as to which the creditors say they do not know whether they have been paid or not. These might fairly have been reckoned as paid, but I thought it better to enter nothing as paid without the creditors' admission to that effect. In Walwane R1,878 unsecured debt are shown as unaccounted for. Of this debtors allege (creditors not examined) that they have paid R1,058 (56 per cent.). The creditor does not know whether he has been paid R483 (25 per cent.), and neither creditor nor debtor was examined regarding R237 (17 per cent.).

The results under the head of "secured debt" call for little remark. A large portion has been repaid, the amount lost to creditors is small, and the balance is secured. That debts of this kind should remain unpaid for 18 years is an indication of the hard times that debtors have experienced in the interval. At first sight the amount of loss incurred by creditors under the head of "unsecured debt" (29 per cent.) seems large. But in the first place the original amount of debt was certainly smaller than the sum stated, as it was customary to deduct a premium on loans. Then the rate of interest on unsecured debt has always been very high, indicating that lenders do not expect to recover the full amount of their nominal loans. Further, and this is the most important circumstance of all, since the debts were incurred the villages have passed through a severe famine, when the destruction of agricultural capital was bound to involve the loss of a corresponding amount of money invested in agricultural loans. The villages also, not to mention bad seasons, suffered severely from the plague of rats in 1879. If all these factors be taken into consideration, I think it is very creditable to debtors that they have been able to meet their liabilities to the extent shown, and that creditors ought to feel thankful that their losses have not exceeded 30 per cent., which is the figure at which they themselves put them.

Some of the unsecured debts are still outstanding (R5,192), but suppose the balance is paid in another two years, and that the debts were all incurred in 1875, so that the payment extended over 16 years, this would give an average duration of 8 years for each debt of, say, R100 : of this R30 have been lost. If interest be reckoned at 18 per cent., which is well within the mark, and if we suppose that no interest at all was received on the R30 lost, at the end of 8 years the creditor would have R70 principal and R100·8 interest at simple interest, total R170·8. This would give him R70 8 as the profit on his original investment of R100 or at the rate of 8·8 per cent. per annum, an excellent return, considering the circumstances detailed. I give these figures merely as an indication that fair profits may be made in spite of large losses.

The next table shows the means resorted to for the recovery of the debts that have been paid off :

	On personal security.			On mortgage of land.			PERCENTAGE.	
							On personal security.	On mortgage of land.
	R	a.	p.	R	a.	p.		
Total amount paid off	40,813	9	0	36,680	9	0	...	...
Paid off, with or without litigation is uncertain	3,052	10	0	4,621	0	0	7·47	12·59
" " without litigation	33,049	15	0	18,209	9	0	80·97	49·64
" " with litigation before the Deccan Agriculturists' Relief Act.	1,128	0	0	4,459	0	0	2·76	12·15
" " with litigation under the Deccan Agriculturists' Relief Act.	1,235	8	0	3,469	0	0	3·02	9·47
" " by private sale of land to creditors	2,347	8	0	5,922	0	0	5·75	16·14

I omitted in some cases to make enquiries about litigation, but I believe that nearly all the debts entered opposite the heading "With or without litigation is uncertain" were paid off without resort to the Courts. I hesitate to express an opinion about the amount shown as recovered in litigation, but it seems to me large, especially as regards the secured debts. The figures would seem to indicate great unwillingness on the part of debtors to pay or considerable pressure of creditors to realise. Perhaps the latter is the more probable conjecture as the large number of private sales of land show that a considerable number of debtors have voluntarily undergone what to them must have been a most bitter experience in order to satisfy their creditors. I have unfortunately made no notes as to whether the sales of land were in most cases effected before or since the passing of the Deccan Agriculturists' Relief Act. As the Act has been in force for 9 out of 14 years that have elapsed since the debts were recorded in 1875, the figures show that the pressure of creditors to realise has been considerably less since the introduction of the Act than before. As regards the unsecured debts, this may be accounted for by the extended period of limitation since 1880, and by the fact that since then land has not been liable to attachment in execution of money decrees. But neither of these causes will account for the less litigation in respect of secured debts, and the diminution in litigation is itself a satisfactory feature.

The following table shows the debts with respect to which there has been litigation before the Deccan Agriculturists' Relief Act, and the proportions paid off, time-barred, etc. The debts under this category for Ghargaon (*viz.* R610 on personal security) are included in this and subsequent tables:

	On personal security.	On mortgage of land.	Percentage.	
			On personal security.	On mortgage of land.
	R	*R*		
Total amount of debt	4,111	6,144	...	...
Of which paid off	1,738	4,459	42·27	72·57
" " time-barred	(*a*) 1,321	(*b*) 440	32·13	7·16
" " still owing	(*c*) 591	(*d*) 895	14·37	14·56
" " unaccounted for	(*d*) 461	(*d*) 350	11·21	5·69

(*a*) Decrees for R721 of this are said to be time-barred; for the rest I have no information, except that it is not now realizable.

(*b*) With regard to R200 of this, the mortgaged land was sold under a decree obtained by a previous mortgagee. As regards R90, the decree was for defendant on a point of law; as regards the remainder I have no information.

(*c*) Rupees 386 of this forms part of a debt which is being paid off by the assignment of land to the creditor for a term of years. I have no information regarding the rest.

(*d*) Of these items I can give no particulars except that R400 of the R895 is now due under a fresh mortgage.

The following table shows the debts with respect to which there has been litigation under the Deccan Agriculturists' Relief Act, and the proportions paid off, time-barred, etc.:—

	On personal security.	On mortgage of land.	Percentage.	
			On personal security.	On mortgage of land.
	R a p.	*R*		
Total amount of debt	1,960 8 0	6,769	...	...
Of which paid off	1,235 8 0	3,469	63·01	51·24
" " time-barred	(*a*) 80 0 0	(*a*) 100	4·08	1·47
" " still owing	(*b*) 555 0 0	(*b*) 1,500	28·31	22·15
" " unaccounted for	(*c*) 90 0 0	(*c*) 1,700	4·59	25·11

(*a*) This is the difference between the original amount of the debt and the amount decreed by the Court. Without inofrmation as to the amount claimed in Court it is impossible to say whether this represents a reduction in the claim effected by sections 12 to 14 of the Act or not.

(*b*) Of this R100 unsecured and R800 secured are due under instalment decrees in process of liquidation. Rupees 200 and R300 respectively are due under an arrangement by which the creditor is to hold the debtor's land for 20 years in satisfaction of the decree. Rupees 154 are due under a redemption decree. This is the only notice in my notes of a redemption suit, but there may have been others, as I did not specially direct my attention to the subject. As regards the balance, R155 secured and R400 unsecured, I cannot give particulars.

(*c*) These amounts are at present in litigation.

The contrast between these two tables is remarkable. As regards unsecured debts creditors have realized a far larger proportion of their claims under the Deccan Agriculturists' Relief Act than formerly, and in the amount still owing there is a large margin for the proportion becoming still greater. The proportion of secured debt actually paid off as shown in the tables is considerably less now than formerly, but there is a large amount due on instalment decrees in process of liquidation, which is as secure as ever it was, and if the amount entered as unaccounted for be deducted, as it most properly may be from the total debt before deducting the percentages of the amounts paid off, it will be seen that the percentage paid becomes 76 and 68 in the first and second tables respectively. It seems certain that the proportion of secured debts ultimately realised will be at least quite as great under the new as under the former law. On the whole, so far as regards debts in litigation, creditors have decidedly benefited. The relief to debtors will be illustrated in the following tables.

The first shows the mode of payment in cases where there was litigation before the introduction of the Deccan Agriculturists' Relief Act.

	On personal security.	On mortgage of land.	Percentage	
			On personal security.	On mortgage land.
	R	R		
Total amount of debt paid off . . .	1,738	4,459	...	...
Of which paid by sale of land under Court decree.	295	3,715	16·97	83·31
" " particulars not known .	1,443	744	83·02	16·68

The next table shows the mode of payment in cases where there has been litigation under the Deccan Agriculturists' Relief Act:

	On personal security.	On mortgage of land.	Percentage	
			On personal security.	On mortgage of land.
	R a. p.	R		
Total amount of debt paid off . . .	1,235 8 0	3,469	...	...
Of which paid under instalment decrees .	216 8 0	316	17·48	9·13
" by private agreement out of Court .	120 0 0	1,735	9·71	50·01
" by payment in full, either after failure to pay instalment decrees, or without instalments having been decreed.	45 0 0	675	3·64	19·45
" by sale of land under Court decree .	...	99	...	2·84
" particulars of payment not noted but no sale of land.	854 0 0	644	69 14	18·56

Under the old law at least 16 per cent. of the payments effected by resort to the Courts in the case of unsecured debts, and at least 83 per cent. in the case of secured debts were effected by the sale of the debtors' land. Under the new law the amount so realized has been reduced to less than 3 per cent. The contrast is most noteworthy, and the figures are clear evidence of the great benefits that debtors have derived from the new legislation. I have made no notes of the terms of the private settlements arranged out of Court, but however onerous they may have been, they must have been much less grievous to debtors than the absolute alienation of their lands.

20. I come now to the enquiry made regarding the present debts of those occupants, or their heirs, whose debts in 1875 were tabulated by the Deccan Riots Commission. This enquiry was made by a Special Mamledar, Mr. Balwantrao Bhaskar Khandekar, whose services were placed at my disposal for four months for the purpose.

I made a careful test of his work in each village, and I believe the results are as accurate as anything of the kind can be. Every occupant was examined as to his liabilities, and his statement invariably compared with that of his sawkar when they lived in the same village. When the sawkar resided elsewhere his statement was also taken, when possible, and it is only in a few cases that the creditor has not been examined as well as the debtor.

In 1875 the debts of 473 occupants were enquired into. They amounted to R1,03,568-3-4 on personal security and R67,265-1-0 on mortgage of land. Of the 473 occupants, 47, or nearly 10 per cent. have lost their land altogether. I regret that I have no information about half of these showing how the land has passed out of their possession, but for the remaining 23 the particulars are as shown in the margin. The new occupants who have taken the place of the former ones are as follows:—Brahmins 13, Marwaris 8, Kunbis and Malis 20, Chambhar 1, Mussalmans 4. Some of these are money-lenders with no debts, others are money-lenders who have borrowed largely for the purposes of their business. It would obviously be improper in comparing the past and present indebtedness to take the liabilities of the new occupants as equivalent to what might have been the liabilities of the old occupants had they still retained their land. Before making the comparison therefore the debts* of the latter should be deducted from the total amount of debt as recorded in 1875, and the debts of the new occupants should be omitted altogether. At the same time due weight should be given to the fact that 10 per cent. of the original occupants have lost their land.

	Cases.
Transferred by private sale of land	7
Transferred by Court sale of land before the Deccan Agriculturists' Relief Act	6
Resigned to Government	7
Sold for arrears of land revenue	1
Ownership not transferred but mortgagee registered as occupant	2
	23

* Unsecured	R4,869-6-0
Secured	R4,659-0-0

Of the 473 occupants 20 are non-resident. Their debts at present are said to amount to R1,437-8-0 against R5,465-10-0 in 1875, but as they have not been examined, no reliance can be placed on these figures, and their debts should therefore be deducted from both sides of the account. It will also be advisable to leave out of account the village of Ghargaon, for reasons given in paragraph 19. The debts in Ghargaon amounted in 1875, not including the deductions already made on account of occupants who have lost their land and non-resident occupants, to R18,423 on personal security and R4,995 on mortgage of land.

Allowing for all deduction the following table shows the debts of 371 occupants in 1875 compared with 1888:—

Debts in 1875.				Debts in 1888.			
On personal security.	On mortgage of land.	Total.	Total debt in multiples of assessment of land held.	On personal security.	On mortgage of land.	Total.	Total debt in multiples of assessment of land held.
R	R	R	R	R	R	R	R
76,100	56,321	1,32,421	15·43	48,298	43,537	91,836	9·84

The total debt has been reduced 30·64 per cent., but the reduction has been greater under the head of unsecured debt (36·53 per cent.) than under the head of secured debt (22·69). This is what might be expected, as a much larger proportion of the unsecured debt has become time-barred, and also because it is less easy, since the passing of the Deccan Agriculturists' Relief Act for rayats whose credit is low, to raise money on personal security, the land being no longer liable for such debts as it was formerly. The land held by the occupants whose debts were enquired into at different periods is shown in the margin. The revision survey has been introduced in 9 out of the 12 villages in the interval. This always causes a certain amount of readjustment of areas and assessments. It is difficult to say therefore whether there has been any increase or decrease in the holdings, but whichever it may be, it is quite immaterial, the figures being so nearly equal.

Year.	Area.	Assessment.
	Acres.	R
1875	18,580	8,577
1888	17,730	9,332

The great reduction in the burden of debt is eminently satisfactory. There can be no doubt that it is due to the change in the law. Had it not been for this, there is no reason why the burden should have been lightened; on the contrary, it would almost certainly have increased, as a consequence of the famine and other calamities, if for no other reason.

In two villages indebtedness has increased since 1875, in Parner by R8,673 and in Kadus by R986. It should be noticed that in Parner the secured debt has increased much less than the unsecured debt, and in Kadus the secured debt has been considerably reduced, while the unsecured debt has greatly increased. In Parner R3,690 of the increase of R8,673 is due to the debts of two Brahmins, who hold between them land assessed at R60. The increase, therefore, in debts of pure agriculturists is considerably less than what the figures indicate.

Village.	Debts in 1875.		Debts in 1888.	
	On personal security.	On mortgage of land.	On personal security.	On mortgage of land.
	R a. p.	R	R a. p.	R
Parner .	4,760 0 0	8,110	9,853 2 0	11,690
Kadus .	944 8 0	4,921	3,581 4 0	3,271
Total .	5,704 8 0	13,031	13,434 6 0	14,961

The amount by which indebtedness has been reduced varies in different villages, but the following table shows in a different form the result for the whole eleven (Ghargaon being again excluded) :—

Number of occupants whose debts are shown in the list of 1875.	Deduct non-resident occupants.	Remaining resident occupants.	Number of occupants in column 3, who have lost their land.	Percentage, column 4 to column 3	Number of occupants in column 3 after deducting those who have lost their land.									
					Whose debts have decreased since 1875 or remained the same.					Whose debts have increased since 1875.				
					Number.	Percentage, column 6 to column 3.	Debts in 1875.	Debts in 1888.	Percentage decrease in debts.	Number.	Percentage, column 11 to column 3.	Debts in 1875.	Debts in 1888.	Percentage increase in debt.
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
							R	R				R	R	
429	18	411	40	9·73	*258	62·7	1,07,258	41,848	60·98	113	27·4	25,159	49,986	98·6

* Of these 90 (or 21·89 per cent. of 411) are now clear of debt.

On 411 resident occupants 9 per cent. have lost their land : 62 per cent. have reduced their debts from an average of R415 per head to an average of R162 per head, and 27 per cent. have increased their debts from an average of R222 per head to an average of R442 per head.

21. In paragraph 75 of their report the Deccan Riots Commissioners give an abstract of the debts in the 12 villages. I think that more than 12 villages must have been included, because I find that, allowing for the trifling errors alluded to in paragraph 19 above, the proper figures according to the list of debts given in Appendix C of the report are as per margin. I am also inclined to think that the Commissioners did not show the debts of all embarrassed rayats in these villages. It seems extraordinary for instance that in Parner, a village notorious for the ascendancy of the sawkars, only 49 out of 215 occupants should have been in debt. But however this may be, there can be no doubt that the Commissioners took no account of the debts of co-occupants and sub-sharers. Had this been done the burden of debt on the land would have been shown to be much greater than the figures given would lead one to suppose.

Total number of Government occupants . .	1,586
Number of ditto embarrassed	473
	R
Assessment payable on their holdings . .	10,988
Amount of debts on personal security . .	1,03,568
" " mortgage of land . .	67,265

When the Special Mamlatdar was making the enquiry previously described, I directed him to enquire also into the debts of all resident occupants and their co-occupants and sub-sharers. This part of his work was also carefully checked by myself. The results for the 12 villages are as follows :—

Number of occupants, co-occupants and sub-sharers.	Holdings.		Value of holdings at 15 times the assessment.	Value of other property besides land belonging to occupants, etc., entered in Column 1 (excluding cash and ornaments).	Total Columns 4 and 5.	Debts of Occupants, etc., entered in Column 1.			Assessment of land mortgaged.	Amount of debt (Column 9) in multiples of assessment of land held.	Value of assets (column 6) in multiples of liabilities (column 9).	Mortgage debt (Col. 8) in multiples of assessment of land mortgaged (column 10).
	Area.	Assessment.				On personal security.	On mortgage of land.	Total.				
1	2	3	4	5	6	7	8	9	10	11	12	13
	Acres.	R	R	R	R	R	R	R	R			
1,418	55,545	27,627	4,14,316	4,01,337	8,15,653	1,12,434	72,023	1,84,457	3,857	6·67	4·47	18·67

The value of the land is, I consider, under-estimated at 15 times the assessment. It was useless attempting to get at the truth in the matter of cash and ornaments, so they were excluded. Column 5 shows the estimated value of all visible property, as houses, cattle, and household goods. The Special Mamlatdar put very fair values on everything, but the value of cattle was estimated at rather a low figure, as fodder was very scarce at the time, and live stock almost unsaleable. On the whole therefore the actual assets may be taken at some thing over the figure given. The general result is, I think, very satisfactory. Debts as measured by the assessment of the land held are not large and are covered more than four times over by the assets. It is perhaps worth notice that the ratio of secured to unsecured debt is 100 to 156. In the debts recorded by the Deccan Riots Commission the ratio was 100* to 153. There is little difference, but I should have expected to find that under the Deccan Agriculturists' Relief Act, secured debt would have formed a considerably larger proportion of the total indebtedness than was formerly the case. Instead of this it actually forms a less proportion. This would seem to point to the conclusion that in these villages at all events, loans on personal security, compared with mortgage transactions, are quite as much in favour with lenders as formerly.

	R
*Secured	67,265
Unsecured	1,03,568

In other words the personal credit of the rayat who is able to borrow is now as good, no doubt from his being less in debt, as it was when all his immoveable property could be attached in execution of a decree for money.

The different degrees of indebtedness can be most conveniently measured in terms of the assessment of the land held by the debtors. The following are the figures for twelve villages where there are 1,082 occupants and 336 sub-sharers (total 1,418 holders) paying R27,627 of assessment :—

Holders who are not in debt.		Holders whose debts amount to											
		Not more than 5 times the assessment.		More than 5 times but not more than 10 times the assessment.		More than 10 times but not more than 15 times the assessment.		More than 15 times but not more than 20 times the assessment.		More than 20 times but not more than 25 times the assessment.		More than 25 times the assessment.	
Percentage of holders.	Percentage of total assessment.	Percentage of holders.	Percentage of total assessment.	Percentage of holders.	Percentage of total assessment.	Percentage of holders.	Percentage of total assessment.	Percentage of holders.	Percentage of total assessment.	Percentage of holders.	Percentage of total assessment.	Percentage of holders.	Percentage of total assessment.
1	2	3	4	5	6	7	8	9	10	11	12	13	14
46·19	40·42	18·54	25·21	13·54	17·26	6·06	6·77	3·59	2·51	3·17	2·92	8·88	4·87

Opinions are likely to differ as to what degree of indebtedness measured by the assessment should be reckoned as hopeless embarrassment. I do not think that looking to the value of land and the amount of other assets a debt amounting to as much as 25 times the assessment can be looked on as involving insolvency, that is a state of matters in which the assets will not meet the liabilities. But if assets have been correctly estimated in the previous table, it will be seen that, excluding land, they are about equal to the value of the land at 15 times the assessment, so that debt materially exceeding that amount would require for its liquidation the sale of part of the land. It should of course be remembered that hoards, if such exist, in the shape of cash and ornaments, are not taken into account in the assets.

I would classify the holders thus :—

	Per cent. Number.	Per cent. Assessment.
I.—Those free of debt, or in debt not more than 10 times the assessment .	78·27	82·89
II.—In debt from 10 to 20 times the assessment	9·65	9·28
III.—In debt more than 20 times the assessment	12·05	7·79

The first class are either free of debt or indebtedness is not of such amount as to be felt as a serious burden. The second class I should say are on the border land where considerable effort

will be needed for extrication, and where bad seasons or other misfortunes may involve ruin. Some of the third class must be embarrassed beyond hope of redemption, and many will be unable to free themselves without sacrificing part of their land. It will be noticed from the proportion of numbers to assessment paid that the last class is composed of the smallest holders or of holders of the poorest land.

The 655 holders who are not in debt belong to the following castes: Brahmins (10·53 per cent.), Marwaris (3·81 per cent.) Kunbis, Malis, and other cultivators (71·72 per cent.) Mussulmans (3·66 per cent.), Mahars, Mángs and Chambhars (7·78 per cent.), and others (2·41 per cent.).

22. I took the opportunity of the Special Mamlatdar being at work in these villages to collect some further statistics which are worth noting. They include the figures for two large villages (Kolgaon and Ranjangoon) as well as of the twelve villages.

The following table shows how the land in these fourteen villages is distributed between money-lenders, and non-money-lenders according to the names of occupants as registered in the village books.—

Year.	Percentage of total occupants, total area, total assessment.					
	Occupants who are not Sawkars.	Occupants who are Sawkars.	Area held by occupants who are not Sawkars.	Area held by occupants who are Sawkars.	Assessment paid by occupants who are not Sawkars.	Assessment paid by occupants who are Sawkars.
					R	R
1875-76	88·83	11·16	81·04	18·95	79·25	20·74
1883-84 to 1885-86, average	89·69	10·30	82·62	17·37	80·93	19·06
1885-86 to 1887-88, average	89·71	10·28	81·78	18·21	80·55	19·44

It will be seen that the distribution of land as recorded in the village books between sawkars and non-sawkars has scarcely varied during the last few years and is now as nearly as possible the same as it was in 1875-76. The area dealt with is shown in the margin.

Year.	Occupants.	Arear.	Assessment.
		Acres.	R
1885-86	1,586	81,122	37,616
1887-88	1,655	82,552	40,951

The following table shows the distribution at different periods of sawkars' holdings according to the castes of the holders:

Year.	Brahmin.			Marwari.			Kunbi and Mali.			Mussalman.			* Others.		
	Per cent. number of Sawkar occupants.	Per cent. Area held.	Per cent. Assessment paid.	Per cent. number of Sawkar occupants.	Per cent. Area held.	Per cent. Assessment paid.	Per cent. number of Sawkar occupants.	Per cent. Area held.	Per cent. Assessment paid.	Per cent. number of Sawkar occupants.	Per cent. Area held.	Per cent. Assessment paid.	Per cent. number of Sawkar occupants.	Per cent. Area held.	Per cent. Assessment paid.
1875-76	16·94	17·93	19·89	28·81	32·02	31·53	44·63	42·80	40·93	3·33	3·57	4·37	6·21	3·84	3·24
1883-84 to 1885-86, average	19·58	19·52	18·54	28.41	30·76	29·79	43·52	44·63	44·78	2·70	3·61	5·43	5·88	1·45	1·43
1885-86 to 1887-88, average	19·45	20·12	19 54	25·94	27·65	27·34	44·48	46·43	45·85	3·78	3·99	5·49	6·27	1·79	1·75

* These are Shenvi, Pardeshi, Sonar, Sutar, Lohar, Kasar, Teli, Tamboli, Parit, Lingayat-wani, Gawli, Dhangar, Koli, Mhar, Gosavi, Christian.

The distribution now is similar to what it was in 1875: but there is a noticeable tendency for the holdings of Kunbi, Mali, and Mussalman sawkars to increase, and for those of Marwaris and "Others" to decrease. This shows, in conjunction with the previous table, that professional money-lenders have less land standing in their names than formerly.

It is a common practice for the possession of land to be transferred without any record of the transfer being made in the village books. I have accordingly prepared a statement for the 14 villages showing the actual amount of land at present in the possession of sawkars, whether

recorded in their own names or not. The following is an abstract. The figures are for 1887-88 :—

	Area.	Assessment.	Percentage.	
			Area.	Assessment.
	Acres.	R	Acres.	R
Land held by sawkars in their own names	14,645	7,819	*17·74	*19·09
Ditto ditto not in their own names	10,150	5,210	12·29	12·72
Total held by sawkars	24,795	13,029	30·03	31·81
Remainder held by others	57,757	27,921	69·96	68·18

* There is a slight difference between these figures and those given in the first table of this paragraph. In a few cases it was found that land entered in the accounts in the names of sawkars had in reality been transferred to others. In such cases in this table it is included with land belonging to "Others," but in the previous table it is shown as recorded in the village books.

It may be assumed, I think, that the distribution of the land not held in their own names among the different castes of sawkars is similar to the distribution of the land which is held in their names. If this assumption be correct, the distribution of the whole lands of these villages will be somewhat as follows :—

	Area.	Assessment.	Percentage.	
			Area.	Assessment.
	Acres.	R	Acres.	R
Held by Brahmin sawkars, some of them professional money-lenders, others not	4,990	2,547	6·04	6·21
Held by Marwari sawkars, probably all professional money-lenders	6,857	3,563	8·30	8·70
Held by Kunbi and Mali sawkars, probably all agriculturists by profession	11,513	5,975	13·94	14·59
Held by Mussalman and other sawkars, some money-lenders by profession, others not	1,435	944	1·73	2·30
Held by other than sawkars	57,757	27,921	69·96	68·18

It appears from this that between 12 and 15 per cent. of the whole land is in the possession of men who are not agriculturists by profession and that the remainder belongs to the ordinary cultivating classes.

It is impossible as a rule to get figures of a similar description for a previous period, there being no record in the village books, and therefore it is a matter for conjecture whether the proportion of land held by sawkars in their own names to that held by them in other people's names has always been the same as it is now. I see no reason to suppose that there has been much change in this respect. In two villages I obtained corresponding figures, which I think may be relied on for 1875-76. In neither does the proportion above referred to correspond with that shown for the 14 villages. But when the figures for both villages are combined, the proportion corresponds pretty closely. The figures are given in the margin.

	Percentage.	
	Area.	Assessment.
	Acres.	R
Land held by sawkars in their own names	11·53	12·36
Land held by sawkars not in their own names	15·38	17·93
Total held by sawkars	26·91	30·29
Remainder held by others	73·07	69·86

23. The statistics of litigation during the past eight years, which I have obtained from the Subordinate Judges, will be found in Appendix D, Forms 1 to 6.

Form No. 1 shows the suits of all kinds instituted. It will be seen that litigation in the four Deccan Agriculturists' Relief Act districts is much less in proportion to population than in the others. The number of suits instituted per lakh of population was 4,231 in the former and 8,117 in the latter, or in the ratio of 100 in the former to 191 in the latter.

I asked all the Subordinate Judges and Mamlatdars whether business on accounts without bonds was increasing or decreasing. With a few exceptions the answer was that business on accounts only was decreasing, that transactions of this kind were ordinarily confined to traders and that when entered into with agriculturists were usually limited to petty retail transactions or loans of a few rupees. This opinion is in part only confirmed by the figures in the following table taken from Form No. 1 :—

District.	Years.	Total number of suits instituted on bonds and accounts.		Percentage of Total.					
				On Bonds.				On accounts only without bonds.	
				Secured.		Unsecured.			
		Number.	Value.	Number	Value.	Number.	Value.	Number.	Value.
			R		R		R		R
4 Deccan Agriculturists' Relief Act districts . . .	1880—1883	39,479	37,02,734	9	17	79	63	11	19
5 districts	1880—1884	1,36,733	88,62,799	8	11	78	74	12	14
4 Deccan Agriculturists' Relief Act districts . . .	1884—1887	45,670	46,93,112	11	17	73	58	15	23
5 districts	1884—1887	1,56,797	99,16,977	8	11	73	68	18	19

This shows that in all districts, but more noticeably in the four Deccan Agriculturists' Relief Act districts, the average value of suits on accounts is greater than the average value of suits on bonds, the reason no doubt being that more of them are due to the comparatively larger dealings between traders than to the smaller transactions between lenders and borrowers. The proportion of suits on accounts to suits on bonds has increased in both sets of districts, a fact which is contrary to the opinions of the reporting officers.

It might have been expected that the provisions in the Deccan Agriculturists' Relief Act for going behind the bond and for taking an account would have inclined lenders in the four Deccan Agriculturists' Relief Act districts to rely more on accounts and less on bonds than lenders elsewhere; but this does not seem to be the case, because although the value of suits on accounts is proportionately greater in the four districts than five, the number of such suits is proportionately less.

The average value of all suits instituted on bonds and accounts in the four Deccan Agriculturists' Relief Act districts in 1880 to 1883 was R93, and in 1884 to 1887 it was R102. The corresponding figures for the five districts are R64 and R63. The *pro ortion of suits against agriculturists to total institutions is slightly greater in the four Deccan Agriculturists' Relief Act districts than in the other five, so the difference in average value cannot be accounted for by supposing that suits against non-agriculturists, of which the value might be assumed to be comparatively greater are more numerous in proportion in the four districts than in the five. It would seem, therefore, that owing to the operation of the Deccan Agriculturists' Relief Act loans of small amount to men of small means have been proportionately more curtailed in the four Deccan Agriculturists' Relief Act districts than loans to men of substance. The check to borrowing, therefore, has been most felt where it was most needed.

*4 Deccan Agriculturists' Relief Act districts 13 to 23.
5 Districts 10 to 24.

A comparison of the suits instituted for redemption of immoveable property affords a striking example of the benefits enjoyed by agriculturists in the four Deccan Agriculturists' Relief Act districts as compared with those of other districts. The four district being considerably smaller than the five, the difference between the two groups in the matter of redemption suits is really greater than the figures indicate. The excess of redemption suits in Satara over Ahmednagar and Sholapur is in a great measure to be attributed to the fact that mortgages have been much more common transactions in the former than in the latter districts both before and since the introduction of the Act, as may be seen from the registration statistics. Foreclosure suits have been much fewer in the four Deccan Agriculturists' Relief Act districts than in the five others.

	Number.	Value. Rs.
4 Deccan Agriculturists' Relief Act districts . .	14,340	36,97,501
5 Districts	1,737	4,49,292

The results of eight years' redemption suits in four Deccan Agriculturists' Relief Act districts are thus summed up by the Special Judge in his report for 1887 : "In all, the contested cases representing claims to the extent of about 22⅓ lakhs of rupees were settled for 14½

lakhs of rupees. During the same eight years the Conciliators in the four districts settled claims of a total value of nearly 7 lakhs. The mortgage-debt settled by the Conciliators and the Subordinate Judges in eight years thus amounts to nearly 30 lakhs of rupees, and the settlement was made at about 21 lakhs of rupees. These figures will give an approximate idea of the relief afforded by the provisions which the Legislature intended for the benefit of the indebted agriculturists."

I have commented elsewhere on the figures in Form 2 of Appendix D, and it will be sufficient here to notice the great contrast between the two groups of districts in the number of suits brought against agriculturists. The contrast would be still more marked if Bijapur, where the amount of litigation is trifling, were left out. The figures also show that in the four Deccan Agriculturists' Relief Act districts, agriculturists take advantage of the facilities afforded them for asserting their claims in the Courts.

From Form No. 3 of Appendix D I take the following table showing the results of the trial of every hundred cases in which the defendant was an agriculturist:—

Districts.	Years.	Results unfavourable to Defendants				Results more or less favourable to Defendants.		
		Decreed on confession.	Decreed *ex-parte*.	Judgement for Plaintiff in whole or in part	Total	Compromised.	Judgement for Defendant.	Total.
4 Deccan Agriculturists' Relief Act Districts . . .	1880—1883	19	8	42	69	22	7	29
Do. do.	1884—1887	9	4	41	54	35	8	43
5 Districts	1880—1883	10	55	20	85	9	3	12
Do. do. .	1884—1887	13	54	19	86	8	3	11

I assume that in a compromised suit the plaintiff is content with something less than the amount of his claim, and that the decree is therefore more favourable to the defendant than if the case had been decided on confession or *ex-parte,* or after contest with judgment for the plaintiff. The Special Judge has several times reported the opinion of the Subordinate Judges that the compromises entered into before them are proper and reasonable and advantageous to both parties. The table shows that the defendant was completely successful in more than twice as many cases in the four Deccan Agriculturists' Relief Act districts as in the five, and that he effected a compromise in about three times as many cases. It shows also the advantage possessed by agriculturist-debtors was more marked in the second period than in the first.

How much of the benefit which agriculturist-debtors have derived in this matter is due to the provision against *ex-parte* decrees in the four Deccan Agriculturists' Relief Act districts it is impossible to say. The Deccan Riots Commission showed how much more prevalent *ex-parte* decrees were in Bombay than in other Presidencies. The alleged causes were the rayat's fear of his creditor, and his ignorance which prevented him understanding where he had a good defence to offer. It was also alleged that such decrees were obtained fraudulently by collusion with the process-servers, but the Commission appear to have been of opinion that this species of fraud had become less common than formerly, and that when an agriculturist-defendant failed to appear it was generally because he had no defence to offer, or that when he had a good defence he was restrained from appearing on account of the cost of retaining a pleader, without whose assistance there was a risk of his pleas being misunderstood by the overworked Court. All the Subordinate Judges report to me that almost the only reason for *ex-parte* decrees is that the defendants have no substantial defence. It appears to me that this opinion has generally been expressed without sufficient reservation; because I gather from the Special Judge's reports that the section requiring the presence in Court of the defendant is generally regarded as one of the most necessary provisions of the Act. The Special Judge says that in the four districts, before the introduction of the Act, 90 per cent. of suits for the recovery of money used to be decided *ex-parte*. Formerly it was exceptional that the merits of a case should be enquired into. Now a fair hearing is ensured for both sides. No doubt the greater success of agriculturist-debtors in contested cases is mainly due to other provisions of the Deccan Agriculturists' Relief Act, but the reason for compromises being so much more numerous in the four Deccan Agriculturists' Relief Act districts than elsewhere, must, I think, be attributed in great measure to the defendants' attendance being secured in all but a few cases.

The proportion of *ex-parte* decrees passed to total number of suits disposed of in all Subordinate Courts in the Presidency since 1871 is shown in the margin. If suits disposed of under Chapter II of the Deccan Agriculturists' Relief Act be excluded from the calculation, the percentages for the two last periods become 37 and 39, the highest figures being in the years 1886 (41) and 1887 (40), so that in districts outside the Act, the tendency at present is for the proportion of *ex-parte* decrees to rise. In suits disposed of under Chapter II of the Deccan Agriculturists' Relief Act the average yearly percentage of *ex-parte* decrees has been 6·1, and if the first year of the working of the Act be excluded, when for various reasons the figure was high, the average percentage has been 5·7.

1871 to 1875—61 per cent.
1876 " 1879—47 "
1880 " 1883—34 "
1884 " 1887—36 "

The figures in the last column of Form No. 3 are really averages of averages and do not represent the true average duration of suits. It would have involved much labour to work out the true averages, and they would probably differ little, relatively to each other, from the figures given. The following is the order of districts according to the average duration of suits.

Number.	District.	Contested.		Number.	District.	Uncontested.	
		Months.	Days.			Months.	Days.
1	Ratnagiri	7	13	1	Satara	4	22
2	Satara	7	12	2	Thana	4	3
3	Thana	6	17	3	Nasik	3	16
4	Nasik	6	12	4	Ahmednagar	3	15
5	Poona	5	23	5	Sholapur	3	13
6	Ahmednagar	5	14	6	Poona	3	6
7	Sholapur	5	3	7	Ratnagiri	2	29
8	Khandesh	3	29	8	Khandesh	2	11
9	Bijapur	3	29	9	Bijapur	2	16

Before leaving the subject of disposal of suits it will be convenient to notice the results of "going behind the bond." Enquiry into past history is made in three classes of agriculturists suits, *viz.*, suits for recovery of money, section 3, clause (*w*), suits for foreclosure, possession, or sale of property, clause (*y*), and suits for redemption, clause (*z*). The last-mentioned have been referred to before. The results under the two other classes for the year 1887 are shewn in the following tables:

Description of Suits.	Total number disposed of.	Total number contested.	Total in which past history examined	Percentage —column 4 to Column 2	Percentage —Column 4 to column 3.
1	2	3	4	5	6
Section 3, clause (*w*)	3,527	1,287	678	19	50
Section 3, clause (*y*)	1,204	492	272	22½	55

Description of Suits.	Amount of Claim.			Amount awarded.	Percentage abatement.
	Principal.	Interest	Total.		
	R a. p.	R a. p.	R a. p.	R a. p.	R
Section 3, clause (*w*)	19,441 3 5	19,306 13 10	58,748 3 3	42,716 1 9	2
Section 3, clause (*y*)	24,328 12 6	10,789 11 4	35,118 7 10	25,005 1 10	28½

In previous years the percentage abatement has been higher, from 30 to 34 per cent. "The reduction in the percentage abatement is due chiefly to the exhaustion of old transactions."

Form No. 4 of Appendix D shows the results of proceedings on applications for execution of decrees. The proportion of applications resulting in arrest and imprisonment, or the sale of immoveable property have of course been less in the four Deccan Agriculturists' [Relief

Act districts than elsewhere. The larger proportion of applications resulting in possession being given of immoveable property is no doubt to be accounted for by the great number of redemption suits in the four Deccan Agriculturists' Relief Act districts. As regards „ satisfaction obtained in full" creditors have been rather more successful in the four Deccan Agriculturists' Relief Act districts than in the others, and rather less successful under "satisfaction obtained in part." From the Special Judge's reports it appears that a similar distinction is observable in the different classes of cases decided under Chapter II of the Deccan Agriculturists' Relief Act. Satisfaction is obtained in full in a larger proportion of cases if the judgment-debtor is an agriculturist, and satisfaction is obtained in part in a larger proportion of cases if he is a non-agriculturist. In the proportion of wholly infructuous applications there is little difference. On this subject the Special Judge writes in his report for 1884:

It may indeed seem surprising that a creditor who cannot touch his debtor's person or property* should be nearly as well off as a creditor who can do both; but I submit that, as far as we can judge from the respective percentages of infructuous darkhasts, it appears to be true. The returns also show that the creditors of agriculturists realized R21,080 with the issue of process, and R3,291 without the issue of process, while the creditors of non-agriculturists realized R25,505 and R2,777 respectively. Here again the difference is very small. I do not wish to make out that this execution of decrees is satisfactory or that it establishes the sufficiency of the compulsory powers left to creditors under the Act. I merely desire to point out the results are not dissimilar, whether as regards suits against agriculturists or non-agriculturists in the four districts; and a glance at the Presidency Returns contained in the last General Adminstration Report will show that the same state of things exists in the other districts also; for it appears that out of 178,442 darkhasts disposed of, 113,311 or 64·7 per cent. proved to be wholly infructuous. The Relief Act has not therefore had the effect of causing a greater number of decrees to be infructuous, as far as execution through the Courts is concerned. It may well be that execution out of Court is not so readily obtained in cases to which the Act applies; but when it is remembered what execution out of Court implies, I think there can be no cause for regret. It implies a system of petty oppression and terrorism which tends to bring about and perpetuate a condition of predial serfdom resulting in agrarian discontent and not unfrequently in agrarian disturbances. The diminution in agrarian crime is one of the effects of the Act that has repeatedly been remarked on to me. I have often pointed out that the statistics obtainable from the records of the Courts fail to supply complete or accurate information as to the execution of decrees, for the majority of decrees are executed otherwise than through the Courts in a variety of modes of which the Courts have no cognizance. The intention of creditors in procuring decrees is not so much to obtain speedy recovery of their debts through the ordinary machinery of the Courts, as to keep the debt alive as long as possible, with a view to squeeze the debtor from time to time, as favourable opportunities occur, under the threat of process. As a matter of fact solvent debtors are seldom sued in the mofussil, and when they are sued the creditors have sufficient facilities even under the restricted provisions of the Relief Act for the recovery of their dues. The majority of judgment-debtors are not really in a position to pay at once, even though their lands were sold for the debt. What the creditor looks forward to in their case is his power to seize upon and secure for himself the fruits of their own future labour and that of their families and descendants, and this is the power which the Relief Act has to a great extent deprived him of. It is the loss of this power which is producing and will, I believe, continue to produce a salutary revolution in the relations of lender and borrower checking improvident borrowing and also restraining an unsound and speculative, as well as an unjust and rapacious system of moneylending without injuriously affecting the domain of sound and legitimate trading.

*With some exceptions.

In regard to execution of decrees I asked all the Subordinate Judges in the nine districts the following questions :—

(a) What is the explanation of the number of applications for execution entered in Form No. 4 as "wholly infructuous" and of the number of sterile decrees in Form No. 5?

(b) In cases where a decree has been passed for payment by instalments and the instalments are not paid through the Court, do you think nevertheless that they are really paid by the judgment-debtors, or are they not? Are they paid in some classes of cases more than in others? Give reasons for your answers, and if you have any statistics on the subject, quote them. How do sawkars on the whole regard instalment decrees?

(c) Are decrees ever satisfied out of Court? Is there much risk to the judgment-debtors in satisfying a decree in this way? Cite instances if you think there is.

The reasons assigned for infructuous applications are everywhere much the same.

(1) The creditor omits one or other of the steps between application and execution, *e. g.*, fails to pay the fees, or to attend with the bailiff to point out the property. Such omissions are often due to the application having been made merely to keep the decree alive.

(2) No property is found or it is concealed, or the judgment-debtor's house is locked.

(3) The judgment-debtor cannot be found for arrest.

(4) The decree is in whole or in part satisfied privately.

Sterile decrees are almost everywhere accounted for thus:

(1) Satisfaction is obtained in whole or in part, either by payment, or by passing a fresh bond, without the knowledge of the Court.

(2) The judgment-debtor is dead, or has left the country, or become insolvent.

As regards instalment decrees the following is the prevailing opinion of the Subordinate Judges in the four Deccan Agriculturists' Relief Act districts. There can be no doubt that instalments are paid without being certified to the Courts. The extent to which they are so paid is a matter of conjecture. In a good many darkhasts judgment-creditors acknowledge part payments made privately which had not been notified to the Courts. Also in a considerable number of cases no applications are made for execution, which, unless payments are made privately would mean that sawkars had gone to the trouble and expense of getting decrees without any prospect of realizing. Debtors sometimes allege, when execution proceedings are taken aginst them, that they have paid instalments. But as the twenty days allowed by the Limitation Act have always expired before the objections are made, the Courts cannot hear them and have no means of determining whether the alleged payments have been made.

The time has recently been extended.

There is more diversity of opinion among the Subordinate Judges of the five districts, but the preponderance of opinion is that such payments are made. The creditor sometimes takes a fresh bond in satisfaction, which, though illegal, generally serves its purpose.

In both groups of districts, sawkars are said as a rule to look upon instalment decrees with disfavour as they very seldom bear interest, and also because (this is noted in the group of five districts) they fear that another creditor may step in with a decree and realise from the debtor's property.

With regard to instalment decrees I quote the following from the Special Judge's report for 1884:

The provisions of the Act contained in sections 20 and 15B, whereby instalments are allowed to be granted both in ordinary money decrees and in decrees in mortgage cases, are as popular as ever, being more thoroughly appreciated by the general body of agriculturists than any other provision of the Act. During the year under report, instalments were allowed in 4,560* cases falling under Chapter II, at the time of passing decree, and in 284 cases subsequent to decree in the course of execution proceedings. The lower Courts continue to be very careful in the matter of allowing instalments, and do not grant them indiscriminately, or as a matter of course, or without proper enquiry. An impression prevails in some quarters that the system of decreeing payment by instalments is carried out to an unjustifiable extent which must bear very hardly upon creditors, and that instalments are allowed to spread over an unreasonably long period of years, and that future interest is not even then awarded. I have satisfied myself, however, that such is not really the case, as far at least as decrees under Chapter II of the Act are concerned. In the great majority of cases instalments are not permitted to run over a longer period than two or three years, and I have always intimated my own opinion that as a rule the maximum period should be seven years, that being the term prescribed in section 22 for the Collector's management of a judgment-debtor's property. It is generally only in cases where instalments are fixed by consent of parties that they are made to spread over a long period. I have noticed that in cases before Conciliators, where everything is arranged by consent of parties, instalments are made much more easy and extend over a larger number of years than usually happens when intalments are ordered by the Courts. I have seen instances in which a creditor has agreed to receive payment of R200 by yearly intalments of R5. Although future interest is not always awarded, still it is customary to award it in most cases in which otherwise the effect would be to deprive the creditor of reasonable interest on his principal money. The power of getting instalments enables the Courts in effect to adjust the rates of interest, when they seem too high. The Courts have the power no doubt to reduce the rate of interest under section 14, but as a rule they allow the contract rate to stand in claims on simple money bonds when it does not exceed 24 per cent. This is a very high rate indeed, and there can be no injustice under such circumstances in allowing the decreed debt to be paid in three or even seven annual intalments, without awarding future interest. I think that the provisions of the Act allowing instalments have proved most successful, working as they do beneficially to the rayat and not in equitably for the creditor.

* The proportion of admitted and contested cases in which instalments were allowed was—

In	1884	...	62 per cent.
,,	1885	...	72 ,,
,,	1886	...	61 ,,

It appears from the Special Judge's reports that the proportion of cases in which judgment-debtors pay instalments with more or less regularity through the Courts is about 20 per cent. or little more. Last year the figure varied from 18 to 23 per cent. in different districts. In how many more cases instalments are paid without the knowledge of the Courts there are no means apparently of determining.

Much of what has been said under question (*b*) is equally applicable to question (*c*). The following may be noted from the replies of the Subordinate Judges in the four Deccan Agriculturists' Relief Act districts. On the whole there is not much risk. One instance is mentioned in which a judgment-debtor by making an application to the Court within the prescribed twenty days just saved himself from becoming the victim of a disgraceful fraud. It is not uncommon for the judgment-debtor in execution proceedings to plead payment out of Court and for the applicant to admit payment, but declare that it was on account of another debt. The prevailing opinion among the Subordinate Judges in the group of five districts also is that there is not much risk especially if the creditor is a man of good character, and if the judgment-debtor gets a receipt, which is seldom given. The principal risk is that the payment may be appropriated to a debt other than the decree.

The Deccan Riots' Commission (pages 89 to 92) quote from the reports of the Subordinate Judges on the subject of the execution of decrees. A comparison will show that some of the abuses then noted are still existing. Recent changes in the law, extending the time within which the judgment-debtor may apply to have payments out of Court certified, and to bring a suit for the recovery of money paid privately as due under a decree when the amount has subsequently been collected by execution proceedings, have done something to improve their position. But the stupid and ignorant will always be liable to be overreached by unscrupulous judgment-creditors; and the only advantage that the former appear to possess in the four Deccan Agriculturists' Relief Act districts in this respect is, that they are far less in the power of their sawkars, and consequently less liable to be imposed upon.

Before leaving the subject of the execution of decrees I may quote the figures showing the numbers of sales of immoveable property in execution of decrees during the last 17 years through the Presidency :

YEAR.	1871.	1872.	1873.	1874.	1875.	1876.	1877.	1878.	1879.
Number of sales . . .	16,644	18,159	40,067	22,699	22,641	21,413	15,971	11,139	11,371

YEAR.	1880.	1881.	1882.	1883.	1884.	1885.	1886.	1887.
Number of sales . . .	9,421	6,550	6,660	6,157	5,850	5,609	5,678	5,680

The very great diminution in the number of sales shows how much agriculturists everywhere have benefited from the exemptions in the Civil Procedure Code of 1877, and in the four Deccan Agriculturists' Relief Act districts how much more they have benefited from the introduction of the Act.

Form No. 6, Appendix D, gives some particulars of decrees remaining unsatisfied for more than seven years. The Deccan Riots' Commission gave similar particulars for eight Subordinate Courts of Poona and Ahmednagar at page 331 of Appendix C of their report. The following table contrasts the results in all the Subordinate Courts of the two group of districts with those of seven of the Courts referred to. The particulars for the eighth (Talegaum) were not fully given by the Deccan Riots' Commission, so it is omitted :

COURTS.	Average number of times decrees executed.	Percentage of amount realized to amount of decrees.	Percentage of cost of execution to amount realized.	Percentage of net amount realized to amount of decrees.
Subordinate Courts of four Deccan Agriculturists' Relief Act districts.	1·4	10·2	13·1	8·8
Subordinate Courts of five other Districts . .	1·9	14·9	22·3	11·6
Seven Subordinate Courts of Poona and Ahmednagar.	4·2	13·1	92·0	1·4

The net proceeds of execution in the seven Courts were almost *nil*. The cost of execution has absorbed a much larger proportion of realizations in the five districts than in the

four, but the net realizations have nevertheless been somewhat larger. Most of the decrees were passed before the Deccan Agriculturists' Relief Act came into force, and no doubt part at least of the difference in net realizations between the two groups of districts is due to the provisions of the Act exempting an agriculturist from arrest and his land from attachment unless specially pledged. Supposing the whole difference to be due to this cause, it does not represent a very serious loss to decree-holders, especially as they have less trouble than elsewhere in making applications for execution. If the results of execution proceedings in the seven Subordinate Courts is a fair example of what was then generally occurring, the improvement is very satisfactory, particularly as it has been accompanied by a great relaxation of the law in favour of judgment-debtors.

Forms Nos. 7 and 8 are taken from the Special Judge's yearly reports and give information for suits disposed of under Chapter II of the Act, and for execution proceedings similar to that given for all classes of suits in Forms Nos. 3 and 4.

The Deccan Riots' Commission in their report mentioned several kinds of fraud which were alleged to be common at that time in transactions between sawkars and rayats. I have made enquiries from all the Subordinate Judges on this subject, and the following is the substance of their replies under the different heads:—

(a)—The creditor omits to give credit for payments made by the debtor.

Four Deccan Agriculturists' Relief Act districts.—Cases occur. The plea that payment was made and not credited is seldom proved. The Subordinate Judge of Kopargaon says that the plea was proved in 17 per cent. cases in which it was made.

Five Districts.—This form of fraud is not alleged to be common, but payment is sometimes credited to an account other than the one for which the debtor alleges it was made.

(b)—The creditor refuses to show accounts to the debtor.

Nine Districts.—Not common: debtors are in most cases too ignorant to want to see their accounts. Some Subordinate Judges (in the five districts) say there is no difficulty in seeing accounts, so long as the parties are on good terms. One Subordinate Judge in Ratnagiri says that sawkars keep no accounts, and that sawkars with a capital of as much as R30,000 will maintain that they have no accounts whatever. Another in the same district says that a mortgagee in possession who has stipulated to apply profits to reduction of debt will never show accounts.

(c)—The debtor does not receive the consideration named in the bond.

Four Districts.—Not common. The Subordinate Judge of Kopargaon says the plea was proved in 36 per cent. of the cases in which it was urged by the debtor. It is not uncommon for the consideration to be wrongly recited. For instance, the bond professes to evidence a cash payment, whereas in reality it was given on account of an old debt.

Five Districts.—Not common. The allegation when made is seldom proved. But accounts, resulting in a bond, are often not properly made up, *e.g.*, the rayat has been cheated in the value or application of produce paid to his sawkar; or in renewal bonds money due on an old bond is mentioned as a payment in cash; or part of the consideration money is withheld and applied to the liquidation of another debt generally a disputed one.

(d)—Creditors obtain bonds in satisfaction of decrees and then enforce the latter.

Four Districts.—Rare.

Five Districts.—Not common. Bonds are often taken in satisfaction of decrees. There is usually no fraud. The bond often stipulates that if the money due on the bond is not paid, the decree is to be enforced, and if application is subsequently made for execution, reference is made to the bond. A Subordinate Judge in Ratnagiri mentions a case in which an attempt was made to execute both bond and decree. A similar case of attempted fraud in Satara is mentioned in my remarks on Form No. 4, Appendix D.

(e)—Creditors in execution of a decree procure seizure of property not belonging to the debtor, on chance of the owner paying something to redeem it in order to save the trouble of a petition to the Court.

Four Districts.—Rare.

Five Districts.—Rare. It is usually a relative's or a coparcener's property that is seized in such cases.

(f)—Rayats plead that bonds are false when they are really genuine.

Four Districts.—Not common. The Subordinate Judge of Kopargaon says that in 27 per cent. cases in which the plea was raised that the bond was false, the plea was proved.

Five Districts.—Rare, and the plea that the bond is false is seldom proved when raised. One Subordinate Judge says that sometimes all the original signatories of a bond are included in a renewal bond though all may not have been present at the execution of the latter.

(g)—Rayats tender false receipts in evidence.

Nine Districts.—Rare.

(h) Rayats make fictitious transfers of property in order to defraud their creditors.

Four Disticts.—Not uncommon. Cases are fewer now than under the old law and fewer in agriculturists' cases than in others, as the former have little attachable property.

Five Districts.—Common. Ordinary devices are to sell to a relative, or to declare that the property sought to be attached belongs to a joint family from which the debtor has become divided or to make a fictitious transfer to a creditor, or to give one creditor undue preference over another.

I asked the opinion of all the Subordinate Judges in the nine districts on the subject of the Law of Limitation and of imprisonment in execution, as they affect the relations of debtor and creditor. The almost universal opinion is that the ordinary Limitation Law as compared with that in force in the four Deccan Agriculturists' Relief Act districts tends to enhance the amount of debt unduly by causing frequent renewal of bonds, when arrears of interest are added to principal, the alternative to a renewal being a suit in Court with its attendant trouble and considerable cost. Although imprisonment in execution is rarely resorted to, threat of imprisonment is an effectual means of realization. Abolition of imprisonment for debt in agriculturists' cases in the four Deccan Agriculturists' Relief Act districts has lessened the rayat's credit by weakening the sawkar's means of recovery, and a similar effect is anticipated from the recent modification of the law in other districts.

24. I was also directed to make enquiry regarding the tendency towards the concentration of land in the hands of capitalists. I shall first give the statistics which I have been able to procure regarding the variation in size of occupancies. The form in which these statistics are shown in the jamabandi returns has varied from time to time, and for the purpose of comparing an earlier with a later period I can give the number of occupancies only in four groups, *viz.* not exceeding 5 acres, from 5 to 100 acres, from 100 to 500 acres, and over 500 acres. I might have been desirable to have more detail regarding the occupancies between 5 and 100 acres, as these comprise the great bulk of the land, but the information is not available. All occupancies over 100 acres may for present purposes be taken in one group. The years for which I have been able to get statistics suitable for comparison are 1874-75 to 1875-76 and 1882-83 to 1886-87. It would be useless to give the absolute number of occupancies of different sizes and in the first table, therefore, I have shown the average number per 100,000 acre of occupied land. Ratnagiri has been omitted, the statistics being incomplete and incomprehensible :

District.	Description of Occupancies.	Average number of Occupancies per 100,000 Acres of occupied land.			
		1874-75 to 1875-76.	1882-83 to 1886-87.	1882-83 to 1884-85.	1884-85 to 1886-87.
Poona	Not exceeding 5 acres	662	673	675	668
	5 to 100 ,,	2,928	2,960	2,957	2,960
	Over 100 ,,	163	142	142	144
Satara	Not exceeding 5 acres	1,336	1,409	1,463	1,369
	5 to 100 ,,	3,703	3,906	3,997	3,857
	Over 100 ,,	199	184	194	177
Ahmednagar	Not exceeding 5 acres	152	160	164	155
	5 to 100 ,,	2,453	2,531	2,581	2,512
	Over 100 ,,	164	170	169	172
Sholapur	Not exceeding 5 acres	63	70	69	73
	5 to 100 ,,	1,876	1,924	1,900	1,951
	Over 100 ,,	206	218	218	220
Four Districts	Not exceeding 5 acres	481	488	502	476
	5 to 100 ,,	2,661	2,726	2,754	2,715
	Over 100 ,,	181	178	180	179

District.	Description of Occupancies.	Average number of Occupancies per 100,000 Acres of occupied Land.			
		1874-75 to 1875-76.	1882-83 to 1886-87.	1882-83 to 1884-85.	1884-85 to 1886-87.
Khandesh	Not exceeding 5 acres	518	431	418	314
	5 to 100 "	4,366	4,014	3,963	4,017
	Over 100 "	55	70	75	66
Nasik	Not exceeding 5 acres	438	546	539	545
	5 to 100 "	2,856	2,680	2,664	2,704
	Over 100 "	125	162	167	157
Thana	Not exceeding 5 acres	5,304	4,668	4,709	4,572
	5 to 100 "	3,783	3,679	3,678	3,670
	Over 100 "	95	99	96	102
Bijapur	Not exceeding 5 acres	145	163	162	167
	5 to 100 "	3,121	3,441	3,423	3,530
	Over 100 "	162	175	177	178
Four Districts	Not exceeding 5 acres	1,065	919	927	896
	5 to 100 "	3,575	3,489	3,465	3,514
	Over 100 "	107	123	126	121

The next table, which is derived from the above, shows the increase or decrease per cent. in the number of occupancies of each kind per 100,000 acres of occupied land :

District.	Description of Occupancies.	Average in 1882-83 to 1886-87 compared with 1874-75 to 1875-76		Average in 1884-85 to 1886-87 compared with 1882-83 to 1884-85.	
		Per cent. Increase.	Per cent. Decrease.	Per cent. Increase.	Per cent. Decrease.
Poona	Not exceeding 5 acres	1 6	...	...	1·0
	5 to 100 "	1·0	...	·1	...
	Over 100 "	...	12·8	1·4	...
Satara	Not exceeding 5 acres	5·4	...	...	6·4
	5 to 100 "	5·4	...	...	3·5
	Over 100 "	...	7·5	...	8·7
Ahmednagar	Not exceeding 5 acres	5·2	...	...	5·4
	5 to 100 "	3·1	...	...	2·6
	Over 100 "	3·6	...	1·7	...
Sholapur	Not exceeding 5 acres	11·1	...	5·7	...
	5 to 100 "	2·5	...	2·6	...
	Over 100 "	5·8	...	·9	...
Four Districts	Not exceeding 5 acres	1·4	...	...	5·1
	5 to 100 "	2·4	...	...	1·4
	Over 100 "	...	1·6	...	·5
Khandesh	Not exceeding 5 acres	...	16·7	3·1	...
	5 to 100 "	...	8·0	1·3	...
	Over 100 "	27·2	...	...	12·0
Nasik	Not exceeding 5 acres	24·6	...	1·1	...
	5 to 100 "	...	6·1	1·5	...
	Over 100 "	29·6	...	...	5·9
Thana	Not exceeding 5 acres	...	11·9	...	2·9
	5 to 100 "	...	2·7	...	·2
	Over 100 "	4·2	...	6·2	...
Bijapur	Not exceeding 5 acres	12·4	...	3·0	...
	5 to 100 "	10·2	...	3·1	...
	Over 100 "	8·0	...	·5	...
Four Districts	Not exceeding 5 acres	...	13·7	...	3·3
	5 to 100 "	...	2·4	1·4	...
	Over 100 "	14·9	...	...	3·8

The figures require perhaps a little consideration before becoming quite intelligible. When the number of occupancies, per 100,000 acres, under one description rises, and the numbers under the two other headings fall, or *vice versâ*, it is easy to understand how the rise and fall compensate each other; but the interpretation is not at once so clear when the

numbers under all headings either all rise or all fall. In the former case the meaning of course is that, there being more occupancies to be accommodated in the same area, the average size of occupancy under each heading must have diminished. Similarly when the numbers under all headings fall, the explanation is that the average size under each description has risen because a fewer number have to fill the area previously occupied by a greater number. There is plenty of scope for such alterations in average size. For instance, 10,000 acres might include 125 occupancies of 80 acres each or 1,000 of 10 acres each, and both sets would come within the description "from 5 to 100 acres."

There is a noticeable contract between the two groups of districts. In the first group in the period 1882-83 to 1886-87 compared with 1874-75 to 1875-76 there has been—

(1) A slight decrease in the number of large occupancies.

(2) A slight increase in the number of small and moderate-sized occupancies.

In the second group there has been—

(1) A very marked increase in the number of large occupancies.

(2) A decrease in the number of small and moderate-sized occupancies, specially marked in the case of the former.

I would observe in the first place that the working of the Deccan Agriculturists' Relief Act has apparently had nothing to do with producing these results, as the difference between the two sets of districts is almost equally well marked in 1882-83 as it is when the average of the five later years is compared with average of the two earlier years. I attribute the result in the four Deccan Agriculturists' Relief Act districts and Bijapur to two causes: (1) The operations of the revision survey. These always result in the splitting up of occupancies among coparceners. (2) I think it extremely probable that in the districts severely affected by the famine, large holders threw up a good deal of their worst land. In Poona, Bijapur, and Ahmednagar, both causes have combined. In Sholapur and Satara, the second cause has probably been in operation. But neither of these reasons will account for the remarkable increase of large holdings in Khandesh, Nasik, and Thana. I believe the revision survey was introduced into only one taluka of Khandesh, two of Nasik, and one of Thana between 1876 and 1886, and these districts did not suffer from the famine Consequently the concentration of land in large holdings was uninterrupted.

In the above tables I have given a comparison between the period 1882-83 to 1884-85 and 1884-85 to 1886-87, but the introduction of the revised survey into various districts in these years deprives the figures of the value they would otherwise have possessed.

As regards the Thana district, Mr. W. W. Loch has given some valuable information in his Administration Report for 1883-84. He gives comparative statistics for the Mahim and Dahanu Talukas for 1873-74 and 1883-84, which may be summarised as follows :—

Mahim Taluka.

	1873-74.		1883-94.		PERCENTAGE, INCREASE		PERCENTAGE, DECREASE.	
	Area.	Assessment.	Area.	Assessment.	Area.	Assessment.	Area.	Assessment.
	Acres.	R	Acres.	R	Acres.	R	Acres.	R
Total . . .	73,776	1,07,675	80,415	1,08,397	...	...	...	...
Of which percentage held by—								
Pandharpeshas .	49·36	49·04	55·65	57·04	12·74	16·31	...	...
Wild tribes . .	9·60	4·75	5·64	3·32	...	...	41·25	30·10
Others . . .	41·03	46·19	38·69	39·63	...	...	5·70	14·20

Dahanu Taluka.

Total . . .	1,58 866	1,19,731	1,59,388	1,19,892	...	...	...	...
Of which percentage held by—								
Pandharpeshas .	31·01	33·60	52·33	51·65	68·75	53·72	...	...
Wild tribes .	41·84	27·18	23·90	16·51	...	...	42·87	39·25
Others . . .	27·14	39·21	23·75	31·82	...	...	12·49	18·84

In the above tables the Pandharpeshas or upper classes are Brahmins, Parbhus, Wanis, Marwaris, and Parsis. The wild tribes are Warlis, Kolis, Kokanas, and Katkaris, and the others are mainly the ordinary agricultural castes. Of the Pandharpeshas the Brahmins are

specially predominant in Mahim, where in 1883-84, though constituting only one-thirtieth of the population, they held over one-third of the land. Mr. Loch mentions the case of one Brahmin family which in that year held land assessed at about R10,000. In Dahanu the Brahmins are also the largest holders among Pandharpeshas but Wanis, Marwaris, and Parsis are increasing their holdings more rapidly. The area included in the tables forms 25 per cent. of the whole occupied area of the district. The figures show the extraordinary rapidity with which the wild tribes and to a less degree the ordinary agricultural castes have lost their land to the wealthy and enterprising Pandhar peshas. The reports of the district officers show that a similar process was going on all over the district, whether at a more or less rapid rate there are no means of judging; but the figure which I have given in a previous paragraph showing that the number of large occupancies has been steadily increasing in the last five years proves that the process still continues. The following is from Mr. Loch's report:—

Of the wild tribes, the Warlis, whose head-quarters are in Dahanu, and who far out-number any other caste, have been by far the greatest losers. Ten years ago they had 54,000 acres, now they have 25,000, and at this rate ten years hence they will have no land left. They are a peculiarly simple, tractable race; hence they fall easy victims to the bullying Parsi and the astute Brahmin or Marwari, and this is probably the reason why they have never turned on their oppressors, like the Kolis of the Ghats and the Bhils. They have practically lost all their land which lies within easy reach of the railway, and it is only in the villages on the extreme east of the district, which are very unhealthy and difficult of access, that they possess much land. A few well-to-do Warlis are to be found, but if a Marwari lives within reach of such a Warli, he begins by pressing on him tobacco or other goods, apparently as a gift; every thing is, however, entered against the unsuspecting Warli, and when a sufficiently heavy bill has been run up, the Marwari reveals to the Warli the extent of his debt, and threatens him with the Civil court, unless he gives him a mortgage of his land. In a few years the Warli finds himself a landless labourer.

In further illustration of this subject I beg to quote the following extracts from a report dated 30th March 1887 of the Honourable Mr. Stewart, Survey and Settlement Commissioner, regarding the tendency observable in several districts for the rayatwari system of Bombay to merge into a system of petty zemindaris:—

In using the term 'zemindaris' to express the large occupancies which have been thus formed, I wish to distinguish the accumulations of land by persons not originally cultivators themselves from occupancies of persons who have merely become large holders by adding to their original holdings. The latter process has of course gone on from time to time counteracted, more or less by that of sub-divisions, but the practice which is, I believe, a feature of comparatively recent times is the acquisition of land on a considerable scale by merchants, bankers, lawyers, doctors, and others of the non-agricultural classes. * * * * The officers consulted were enjoined to make no open enquiries but merely to state cases within their knowledge and in which information was readily available. The limit was fixed at 100 acres so as to include only occupancies of considerably larger area than those usually held by well-to-do peasantry. The local officers were asked to confine their attention to recently acquired occupancies * * * The number of cases almost immediately forthcoming in reply to my queries and the fact that all the cases quoted are those in which the land has been acquired from occupants by direct purchase only, to the exclusion of acquisition by mortgage and in other ways will, I think, show that the tendency which I alluded to in my report is something more than a tendency and that it is a regular process which has already made considerable way. I hope it will not be understood that in bringing to notice the impending change I had any idea of condemning it, or asking Government to discountenance it. I have always considered that the change is being brought about by perfectly natural economic forces and that it is idle to hope to struggle against it, while it would probably be mischievous to do so. * * * It is only where the change has been too sudden and where it is proceeding with undue irritation to the helpless occupants that in my opinion any special action of Government is necessary. * * * In the Thana District I attribute the greater danger of irritation and agrarian agitation to the fact that the talukas where they chiefly exist are jungly and unhealthy and have been till recently so isolated that the land proved no temptation to outside capitalists. The opening of the Railway, however, brought them within ready reach of the Bombay capitalist and a sudden and unforeseen hunger for the acquisition of land immediately sprang up. The wild tribes to whom the land in that locality afforded a scanty subsistence were not prepared for the successful attempts to oust them on the part of Parsi and Brahmin speculators, and it is admitted that the Parsi land-grabbers especially show a wanton disregard for the feelings of the people.

The following is an abstract of the statement, showing details of petty zemindaris attached to the Honourable Mr. Stewart's report:—

Districts.	Number of Holdings.	Extent of Holdings.		Average size of Holdings.	
		Area.	Assessment.	Area.	Assessment.
		Acres.		Acres.	R
Poona	113	36,552	18,580	323	164
Ahmednagar	9	2,279	2,434	253	270
Sholapur	30	8,948	6,326	298	210
Thana	38	18,879	27,413	496	721
Kolaba	33	8,896	19,113	269	579
Total	223	75,524	73,866	338	330

I have no similar figures for other districts, but from the statistics given in other paragraphs of this report, showing the increased size of holdings, it may safely be presumed that part at least of the increase is due to similar causes. It will be noticed that Mr. Stewart's figures relate to land acquired by voluntary sales on the part of occupants. To attempt to prevent such a process would of course be idle and mischievous. In mentioning the irritation produced by the transfer of land, Mr. Stewart, from the tenor of his remarks, would appear to be referring to forced sales, and I gather that he would not advocate a policy of non-interference where it can be shown that the transfer of land is being effected by the facilities afforded by the law to capitalists for getting the better of ignorant peasants.

More information under this head will be given further on from the statistics supplied by the Collectors.

In connection with the subject of concentration of land in the hands of capitalists, I was directed to point out any causes for this arising from the working of the ordinary law, as distinguished from economical and social causes. In Thana and elsewhere it seems to me that the transfer of land is always due in the first place to economic or social causes. Borrowers, in some cases from improvidence, in other cases from necessity, get into debt. From the same causes and in many cases from the lender taking advantage of the ignorance of the borrower, the debts increase till they finally lead to bankruptcy and the alienation of the land. The ordinary law is the means for effecting the transfer. It is so whether it is actually appealed to or not, for in the latter case it is only fear of the law that could make a debtor voluntarily part with his land. Where the debtor and creditor are of equal intelligence the ordinary law provides equitable justice, but it appears to me that between a shrewd creditor and an ignorant debtor the case is very different, and that injustice is frequently done from the Courts not being in possession of the whole truth. When a suit is brought on a bond, the law assumes that the debtor checked his account before signing the bond, and that it represents the true amount of his debts at the time, the truth in the great majority of cases being that the debter was perfectly incapable of checking his account, but was in want of money which he could not get without acknowledging the correctness of the balance as stated by the creditor. The law thus puts it in the power of a creditor to take advantage of the temporary necessity of an ignorant debtor. That the power is certain to be abused goes without saying. The ordinary law also acts as an encouragement to the improvident rayat to incur debt. The ignorant and improvident rayat no doubt knows in a vague way when he borrows money on a bond that his land may be made liable eventually for the amount, but this is not realised as a conviction, and he incurs liabilities which in many cases he would not have incurred had he so realized his position. The effect on lenders is very different. They thoroughly realise the position and in the competition for business and for land are eager to get borrowers into their books. The quotation from Mr. Loch's report is an illustration of their procedure. It is no doubt preferable to have enterprizing and thrifty instead of embarrassed and thriftless landholders, but when the transfer of land takes place on such a scale as in Thana, other consideration come in, and in any case if the ignorant and improvident are bound to go to the wall, they should not be helped on their way by the arm of the law.

The figures compiled from the Registration Department, and the statements of land sales under Court decrees, and the statistics given for 12 villages of the Ahmednagar District show how the special law has worked as compared with the ordinary law in preventing the transfer of land. In regard to the matters specified above the effect of the Deccan Agriculturists' Relief Act has been—(1) to transfer practically the burden of proving the true amount of the debt, as distinguished from the amount entered in the bond, from the borrower who is not in a position in most cases to give any details, to the lender who is or ought to be; (2) to remove to a large extent the temptation to borrow and lend. The borrower cannot raise now on personal security a pie more than his personal credit is worth, and the lender will not advance a pie beyond that figure. If a loan must be raised and cannot be obtained on personal security, the land must be mortgaged and the borrower, brought face to face with the possible loss of his land, will mortgage as small an area as he can; in other words, he will raise the least sum that will meet his necessities. If ignorance and improvidence are characteristics of a great portion of the cultivating classes, strong attachment to their land is an equally prominent feature of their character. I believe that one of the great merits of the Deccan Agriculturists Relief Act is that it brings this attachment into powerful operation as a deterrent from borrowing. Land is no longer liable for debt without a mortgage, and a rayat will not mortgage unless driven by necessity. A lesson in thrift is thus inculcated, which no amount of school education could have impressed with such force.

It may not be out of place here to give the figures showing the progress of education in the different districts :

District.	Percentage of Scholars to Population.									
	1872-73.	1873-74.	1874-75.	1875-76.	1882-83.	1883-84.	1884-85.	1885-86.	1886-87.	Increase in 1886-87 over 1872-73.
Poona	1·42	1·51	1·56	1·59	2·02	2·20	2·36	2·55	2·77	1·35
Satara	1·08	1·04	1·07	1·08	1·41	1·48	1·55	1·61	1·69	·61
Ahmednagar	1·26	1·24	1·26	1·19	1·99	1·88	1·94	1·90	2·16	·90
Sholapur	1·02	·87	·92	1·07	1·40	1·44	1·74	1·91	2·07	1·05
Khandesh	1·42	1·45	1·55	1·69	1·78	1·82	1·88	1·86	1·92	·50
Nasik	1·12	1·20	1·25	1·23	1·82	1·79	1·86	1·88	1·94	·82
Thana	·99	·92	·92	·95	1·29	1·34	1·67	1·72	1·81	·82
Ratnagiri	·90	·90	·94	·89	1·20	1·20	1·27	1·43	1·67	·77
Bijapur	·74	·70	·74	·76	1·64	1·84	1·92	2·11	2·08	1·34

If the population of school-going age be taken as 15 per cent. of the total population, the above table indicates that unless progress is much more rapid in the future than it has been in the past, a very long period has still to elapse before the masses can benefit very materially from school education.

25. I was directed to enquire into and report on the cost of working the Deccan Agriculturists' Relief Act as compared with that of the Courts and establishment working under the ordinary law. I shall first show the cost of all special agency employed and then the extra cost of the additional Subordinate Courts which it has been found necessary to establish in the four districts.

The following is the cost of the special agency :—

		Annual Cost. R. a. p.
	I—Special Judge and his Assistants.	
a.	Salary of Special Judge at R 1,280	15,360 0 0
b.	Salaries of two Assistants to the Special Judge (3rd Class Subordinate Judges) at R 500 each	12,000 0 0
c.	Office Establishments, Clerks and servants	6,334 10 4
d.	Travelling allowances of Officers	3,685 14 0
e.	Do. Do. establishments	2,011 14 6
f.	Postage charges	902 2 0
g.	Carriage of Tents and Records	442 8 5
h.	Petty supplies	2,124 14 6
i.	Miscellaneous Office expenses	22 5 0
	Total Special Judge and Assistants	42,884 4 9
	II.—Village Munsifs and Conciliators.	
j.	Temporary establishments and process-serving establishments of Village Munsifs and Conciliators.	10,503 5 0
	III.—Village Registration.	
	Deficit in the Village Registration Department in 1887-88	26,627 13 6
	GRAND TOTAL SPECIAL AGENCY	80,015 7 3

In the above table, items (*a*) and (*b*) are the salaries drawn by the present incumbents. Items (*c*) to (*j*) are the actual charges incurred as shown by the Accountant General's accounts under the several heads during the year 1887-88. The figures under Village Registration have been furnished by the Inspector General of Registration.

For the purpose of comparison I have given in the following table the cost of Subordinate Courts in three neighbouring districts as well as in the four Deccan Agriculturists' Relief

Act districts for 1879-80 and 1887-88. The extra Courts in the four districts were established June in 1880, that is after the close of the financial year 1879-80.

	Heads of Expenditure.	A.			B.			C.			D.		
		Districts.	Number of Subordinate Courts.	Year.	Districts.	Number of Subordinate Courts.	Year.	Districts.	Number of Subordinate Courts.	Year.	Districts.	Number of Subordinate Courts.	Year.
		Poona, Satara, Ahmednagar, Sholapur	36.	1887-88	Khandesh Nasik	15.	1887-88	Khandesh, Nasik, Bijapur.	18.	1887-88	Poona. Satara, Ahmednagar Sholapur.	24.	1879-80
a.		R	a.	p.	R	a.	p.	R	a.	p.	R	a.	p.
b.	Salaries of Subordinate Judges	1,15,597	2	10	51,173	8	4	63,055	8	4	96,804	12	6
c.	Establishment—Clerks	53,611	3	2	34,075	13	8	39,503	13	8 }	60,399	1	1
d.	Ditto Servants	14,193	4	3	6,086	14	2	7,267	8	0 }			
e.	Process-serving Establishments,—Clerks	30,977	12	3	21,249	6	6	22,318	1	9 }	1,02,416	10	2
f.	Do. do. Process-servers	69,058	8	11	45,280	10	5	52,451	14	0 }			
	Supplies and services—Purchase of furniture	835	4	9	327	12	3	305	14	8	1,008	6	6
g.	Contingent charges—Rents	2,801	15	7	780	0	0	780	0	0	1,471	5	4
h.	Do. do. —Postage charges	3,960	2	7	1,218	9	1	1,300	5	4	1,637	15	8
i.	Do. do. —Petty supplies	7,421	5	3	4,850	15	5	4,981	6	10	6,792	0	3
j.	Travelling allowance of Officers	4,844	4	9	528	12	8	520	8	8 }	4,619	15	4
k.	Do. do. Establishment	6,104	5	1	1,597	2	9	1,665	14	5 }			
	Total	3,09,405	5	5	1,67,199	9	3	1,94,150	15	8	2,75,150	2	10
	Average per Court	8,594	0	0	11,146	0	0	10,786	0	0	11,464	0	0

In the table, items (a) to (e) are the actual expenditure; but in column D the Accountant General's return does not show the cost of process-serving in District and the Subordinate

Courts respectively. The total was R1,10,219. In the same districts in 1887-88 out of a total of R1,07,657 spent on service of process, R1,00,036 was incurred by Subordinate Courts. Assuming the same proportion to have prevailed in 1879-80, the expenditure incurred by Subordinate Courts would be $\frac{100036}{107657} \times 1{,}10{,}219 =$ R1,02,416 as entered in the table.

Under heads *(f)* to *(k)* the Accountant General's return does not show separately the expenditure incurred by District and Subordinate Courts respectively. The share of expenditure incurred by Subordinate Courts under these heads is calculated on the assumption that one District Court will spend as much as three Subordinate Courts. For instance, there are four District Courts and 36 Subordinate Courts in the four Deccan Agriculturists' Relief Act districts. Accordingly in column A the figures under heads *(f)* to *(k)* represent $\frac{36}{48}$ths of the amounts entered in the Accountant General's return. The estimated figures being small compared with the figures showing actual expenditure, the totals will not be sensibly affected even if the estimate is not quite accurate. There are two exceptions to the above remarks. Probably all charges for rent item *(g)* are incurred by Subordinate Courts, so the figures in the table under this head are the same as in the Accountant General's return. In the column D, item *(f)* is composed of R5,807-3-7 actually spent by Subordinate Courts and an estimated sum of R984-12-8 under a similar heading.

It seems to me that the cost of the Subordinate Courts in Khandesh and Nasik should be taken for comparison with those in the four Deccan Agriculturists' Relief Act districts. *First*, because Bijapur is a very exceptional district in many respects, one of which is that the amount of litigation disposed of on the average by each Court is considerably less than elsewhere, and consequently the cost is less, and *2nd*, because the average cost per Court in Khandesh and Nasik more nearly approaches the cost per Court in the four districts before the introduction of the Act than does the average cost in Khandesh, Nasik, and Bijapur combined.

On the assumption, therefore, that had the ordinary law remained in force there would still have been 24 Subordinate Courts in the four Deccan Agriculturists' Relief Act districts and that they would have cost on the average the same as the Subordinate Courts now cost in Khandesh and Nasik, then their total cost would have been $24 \times 11{,}146 =$ R2,67,504. The actual expenditure on 36 Subordinate Courts was R3,09,405, and the difference, R41,901, represents the cost to Government entailed by establishing twelve additional Subordinate Courts.

There remains another item to take into account in calculating the cost of working the Act, *viz.*, the loss incurred by the exemptions of Court-fees and Process-fees. In his report to Government, No. 336 of 7th September 1888, the Special Judge has calculated the loss as follows :—

	R
1. From exemption of Court-fees and Stamp Duties in redemption and account suits	13,345
2. From the exemption of half the Court-fees and Process-fees in agriculturists' suits	19,601
TOTAL .	32,946

The only item of receipt to be set against expenditure is on account of stamps on certificates, agreements and institutions which amounted in 1886-87 to R12,121, and rather more than paid for the clerks and process-servers employed by Conciliators and Village Munsifs, and the contingent charges of the latter.

Special Judge's letter to Government, dated 17th November 1887.

To sum up, the following table shows the annual extra cost to Government entailed by the working of the Deccan Agriculturists' Relief Act in the four districts :—

Heads of Expenditure.		Annual Cost. R
Charges on account of the Special Judge and his Assistants		42,884
Ditto	establishments of Village Munsifs and Conciliators . .	10,503
Ditto	deficit in the Registration Department under the Village Registration system	26,627
Ditto	cost of twelve additional Subordinate Courts . . .	41,901
Ditto	loss on account of exemptions of Court-fees and Process-fees	32,946
	TOTAL .	1,54,861
Deduct value of stamps on certificates, agreements and institutions (Conciliators' and Village Munsifs' Courts)		12,121
	Net extra cost in four Districts .	1,42,740

26. I was directed to report on such measures as would be needed to make the working of the Deccan Agriculturists' Relief Act financially self-supporting. No such measures are possible if the agency for working the Act is retained as it is at present; a few reductions seem possible which would make the working of the Act less costly than it is at present :—

(a) The Special Judge has suggested in his memorandum to Government, dated 17th November 1887, that when "one Subordinate Judge has charge of two talukas, the two Courts might be amalgamated in regard to their establishments, thereby relieving one nazir and a few of the karkuns and bailiffs attached to each Court." There are at present 18 Courts presided over by nine Subordinate Judges. Two of these have already an amalgamated establishment. The Special Judge estimated that if the establishment of two Courts were amalgamated there would be a saving of about R150 a month in establishment charge of each duplicate Court. For eight duplicate Courts this would amount to R1,200 a month or R4,800 a year.

(b) There are in the current year 31 Subordinate Judges employed in the four districts instead of 32 last year. The average salary of Subordinate Judges is a little over R300, so that the reduction of one represents a saving of R3,600 per annum.

(c) If the exemptions of Court-fees and Process-fees at present allowed were abolished, a saving would result of R32,900. This is the estimated loss at present under this head, and no diminution in litigation need be anticipated from abolishing the exemption. (Special Judge's No. 336 of September 1888 to Government.)

(d) The loss under the Village Registration system might be avoided by increasing the fees to more than double their present amount (Inspector General of Registration's No. 2027 of 15th September 1888 to Government).

The possible reductions of expenditure or improvements of revenue on the basis of retaining the existing agency are:—

	R
a.—Reduction of Subordinate Courts' establishments	4,800
b.—Reduction of one Subordinate Judge	3,600
c.—Abolition of exemption of court-fees and process-fees, producing increased revenue of	32,900
d.—Increase of fees under the Village Registration system	26,600
TOTAL	67,900

As regards (a) the Special Judge does not appear to speak with great confidence of its feasibility, but recommends the experiment being tried; (b) has already been carried out. As to (c) the Special Judge recommends that the exemption of all court-fees and stamp duties in redemption and account suits should be discontinued. This will increase the revenue by R13,345. The Special Judge does not recommend the withdrawal of the exemption of half the Court-fees and Process fees in agriculturists' suits which entails a loss to Government of R19,601. For myself I cannot see any reason whatever for agriculturists in the four Deccan Agriculturists' Relief Act districts being treated more favourably in the matter of Court-fees than those of the neighbouring districts. As regards (d) I agree with the Inspector General of Registration in thinking it inadvisable to raise the fee-rate from an average of R0-5-11 per transaction to an average of R0-11-11. This is the increase which would be necessary to make the Village Registration system self-supporting, and it would certainly be felt burdensome.

It is clear from the above that the working of the Act cannot be made self-supporting if the special agency is retained. This raises the question whether the special agency is required for the satisfactory working of the Act. As regards registration under the Act the Special Judge in his annual report for 1884 writes :—

I am not, however, altogether satisfied with the working of the system. It no doubt prevents fabrication and fraudulent alterations of instruments; but in other respects it does not supply that protection to the weaker party which it was intended to supply. It does not prevent false and collusive descriptions of the character of transactions being entered in the instruments, nor does it ensure the nature of the consideration being truly set forth; and as it aims at securing these objects, it is likely hereafter to give rise to legal presumptions that may prove injurious to the very parties it was designed to protect.

Again, the Special Judge in his report to Government of 17th November 1887 says :

As at present conducted it has very great statistical value and also is some protection against fraud in regard to the execution of bonds. In regard to the proof of consideration, the experience of the Subordinate Judges has not been very favourable as to the value of these provisions.

To this may be added that the system operates in some degree as an obstacle te borrowing; also in petty transactions a bond is now often dispensed with on account of the trouble of registration, where formerly it would have been taken as a matter of course, the lender relying on his accounts and the good faith of the borrower. Government have, in the registration returns under Act III of 1877, statistics of great value which admit of comparison between districts under the Deccan Agriculturists' Relief Act and those under the ordinary law. If village registration furnishes only a partial protection against fraud and fails to ensure proof of consideration, a great part of its value disappears. On the whole, I do not see that village registration is essential to the satisfactory working of the law, and I think it might be done away with, without placing in jeopardy, to any sensible degree, the benefits of the Act. If the Act is introduced into any other districts, I would certainly not advocate the extension to them of the sections regarding registration.

The rest of the special agency consists of the Conciliators and Village Munsifs, the Special Judge and his Assistants and the Subordinate Judges employed in excess of the number found sufficient before the introduction of the Act. The small expenses incurred by Conciliators and Village Munsifs are balanced by the fees they levy, but it seems clear from the Special Judge's annual reports that their retention of necessity involves the employment of a special agency to supervise their work. In discussing, therefore, the economical working of the Act it is necessary to enquire whether the conciliation system can be discontinued without increasing the expenditure on Subordinate Courts. If little or no extra expense would be thrown on Government in disposing of the work now performed by Conciliators, then there is less necessity for having a special supervising agency.

From the returns of last year in the Special Judge's report it appears that 36,817 applications were made to Conciliators, which resulted in 6,469 agreements. Of these, 5,930 were disposed of by the Courts before the end of the year; 65 were found on scrutiny to be objectionable and were not filed. The remainder, 5,865, were filed and had the force of decrees. This represents the entire saving to Government from the use of unpaid agency in disposing of disputes which would otherwise have had to be tried by the Courts. All the work done by Conciliators, and all the time and trouble spent by parties on the 30,413 applications which did not result in agreements, was for practical purposes thrown away, but did not involve any expense to Government. 12,407 certificates were granted by Conciliators, but only 6,178 were used. Taking therefore the 6,178 cases that actually came before the Courts and the 5,865 filed agreements together, the total, 12,043, may be taken as the actual number of suits that would have come before the Courts had there been no conciliation. Now in 10 talukas where the conciliation system is not in force it is found that 48 per cent. of all cases that came before the Courts under Chapter II of the Act are compromised or withdrawn. Cases under Chapter II are either agriculturists' cases in which the intervention of conciliation is necessary or non-agriculturists' cases in which it is not allowed. It is found that taking conciliation and non-conciliation talukas together, 38 per cent. of suits are compromised in agriculturists' cases and 23½ per cent. in non-agriculturists' cases. It may be safely inferred, therefore, the proportion of compromises being considerably greater in agriculturists than in non-agriculturists' suits; that in the ten non-conciliation talukas the proportion of purely agriculturists' suits compromised is well over 48 per cent. Similarly 26 per cent. is the proportion of suits of all kinds that are compromised in conciliation talukas; and the proportion of purely agriculturists' suits that are compromised must be greater. I shall suppose that 50 and 28 per cent. are the proportions of compromises in agriculturists' suits in conciliation and non-conciliation talukas respectively.

Special Judge's report for 1887, paragraph 18.

12,043 is the total number of suits that would have come before the Courts in 26 talukas, but for conciliation 50 per cent. of this comes to 6,021. But 6,178 is the actual number that did come before the Courts, of which 28 per cent. (1,729) according to hypothesis were compromised. Consequently if 1,729 of the 6,021 compromises are accounted for out of 6,178 suits which form one of the components of the total 12,043, the remainder of the compromises (4,292) must be found in the 5,865 suits which form the other component. Deducting 4,292 from 5,865, there remain 1,573 suits that would not be compromised out of the total that would have come before the Courts but for conciliation. Some of these would be "admitted," a few decided *ex-parte*; at the outside probably not more than 1,300 would be contested. If the conciliation system, therefore, were abolished the Courts would have to dispose of 1,300

contested and 4,565 not contested cases in addition to their present disposals. Spread over 26 Courts this would give 50 contested and 175 uncontested suits extra to be disposed of by each; whether the existing Courts could undertake the extra work, or whether additional Subordinate Judges would be necessary, I am unable to say; but in the latter case no extra establishment would be needed, because the agreements effected by Conciliators only save the time of the Subordinate Judge himself and effect no economy on the further processes of enforcing the award. Further, if Conciliators were abolished, the Subordinate Judges would not, as at present, have to scrutinize all Conciliators' agreements and examine parties in doubtful cases; so there would be a very decided saving of time and trouble in this respect.

The utility of the Village Munsifs is confined almost entirely to the larger towns. They intercept very little litigation from the Subordinate Courts. Agriculturists' cases rarely come before them. Their work and records are constantly supervised by the Special Judge and his Assistants. They are therefore the cause of some extra expense on account of special agency. Practically they have no part in carrying out the professed object of the Act.

The Subordinate Courts cost considerably more than they did before the introduction of the Act. But the decrease in litigation has been so great, that it may be worth while for Government to consider whether the establishment of Subordinate Courts is or is not more than sufficient for disposing of the smaller number of suits.

I have no information as to the number of suits disposed of by the Subordinate Courts in the four Deccan Agriculturists' Relief Act districts before the introduction of the Act, but it may be safely taken, I think, over a series of years to be approximately equal to the number of suits instituted. For the ten years preceding 1880 the annual average* number of suits instituted in all Subordinate Courts of the four districts was 31,106, and I shall take this figure as representing with sufficient accuracy the number disposed of.

* In the ten years preceding the famine, the average was 43,731.

In the three years 1877 to 1879, 19 per cent. of the suits disposed of by Subordinate Courts of the whole Presidency were contested. It may be presumed that the percentage of contested suits in the four districts was about the same. I have now obtained details of all suits disposed of by the Subordinate Judges in the four districts from 1880 to 1887, and the following table contrasts the work done before and after the introduction of the Deccan Agriculturists' Relief Act:

1870–1879.					1880–1887.				
NUMBER OF	ESTIMATED AVERAGE ANNUAL NUMBER OF SUITS DISPOSED OF.		AVERAGE NUMBER OF SUITS DISPOSED OF BY EACH SUBORDINATE JUDGE.		NUMBER OF SUBORDINATE JUDGES.	ACTUAL AVERAGE ANNUAL NUMBER OF SUITS DISPOSED OF.		AVERAGE NUMBER OF SUITS DISPOSED OF BY EACH SUBORDINATE JUDGE.	
Subordinate Judges.	With contest.	Without contest.	With contest.	Without contest.	Judges.	With contest.	Without contest.	With contest.	Without contest.
24	6,860	29,246	285	1,218	33	6,944	17,726	210	537

These figures will be valuable to any one who, from experience of the ordinary and special law, is competent to form an opinion as to whether the extra work involved in deciding suits under the Act is sufficient to account entirely for the fewer number of cases disposed of, on the average, by each Subordinate Judge. If there are no more Subordinate Judges than necessary, the results are an indication of the greatly increased amount of time and labour bestowed on the administration of justice. The following table shows under what heads the expenditure is greater or less in the 36 Subordinate Courts than it would have been in 24 Courts at the rate of expenditure incurred in the Subordinate Courts of Nasik and Khandesh:—

Heads of Expenditure.	36 Courts.	24 Courts.	More.	Less.
	R	R	R	R
a.—Salaries of Subordinate Judges	1,15,597	81,876	33,721	...
b.—Establishments, Clerks	53,611	54,520	...	909
c.— Ditto, Servants	14,193	9,737	4,456	...
d.—Process-serving Establishment, Clerks	30,977	33,998	...	3,020
e.— Ditto, ditto, Process-servers	69,058	72,448	...	3,399
f.—Supplies and services—Purchase of furniture	835	523	312	...
g.—Contingent charges, Rents	2,801	1,248	1,553	...
h— Ditto, Postage charges	3,960	1,996	1,964	...
i.— Ditto, Petty supplies	7,421	7,760	...	33
j—Travelling allowance of officers	4,844	844	4,000	...
k.— Ditto, Establishment	6,104	3,155	2,949	...

It will be seen that nearly five-sixths of the extra expenditure are due to the salaries of Subordinate Judges and travelling allownces. The latter are owing to several Subordinate Judges being in charge of two Courts. The other items do not obviously suggest the possibility of retrenchment.

There remains the expenditure in connection with the Special Judge and his Assistants. As regards this I must say at once that, without any practical knowledge of the working of the law in the Courts, I am incompetent to offer an opinion as to the necessity, with a view to the satisfactory working of the Act, of maintaining the special agency. Government have repeatedly acknowledged the value of the work done by the Special Judge and his Assistant in the past, and it appears to me that Government alone are in a position to appreciate adequately the effect of dispensing with their services. I can only suggest one or two points which appear to me to require consideration in disposing of the question. If the conciliation system is retained, some special supervising agency must be kept up. It would be perfectly hopeless for the District Judges to attempt to perform the work of inspection now done by the special officers, without which the conciliation system would assuredly fail. The Special Judge says in his report for 1881, afer enumerating the advantages of the conciliation system: "The chief objection I have to the system is that it tends to encourage collusive agreements, and to nullify to a great extent one of the principal objects of the Act, namely, the relief from debt of the indebted agriculturists, by the facilities which it affords for evading that searching enquiry into the merits of each transaction which to my mind is the most important means of relief afforded by the Act. There are many conscientious and zealous Conciliators who seek to prove the true merits of each case and who use all their influence to persuade the parties to come to an equitable compromise. Other Conciliators are more easy-going, and such persons are apt to be made mere Registrars for giving legal sanction to the claims presented to them. Large numbers of conciliation agreements are little better than mere renewal bonds, supplanting old deeds. In former reports I have enlarged upon this subject, and it will here suffice thus briefly to refer to my views. I have only to mention in this connection a new practice which seems to be growing up in places. When a loan is being negotiated, in order to avoid the trouble and expense of writing out a bond on stamped paper and of having it formally registered by a village registrar, the parties go before a Conciliator. The creditor makes a demand. The debtor admits the debt and promises to pay in certain sums and at certain times as may have been fixed upon. The Conciliator takes down the agreement in writing. It is signed by the parties. It is then sent to the Court and takes effect as a decree. The dispute and the pleadings before the Conciliator are a kind of legal fiction to give him jurisdiction. The lender thus gets what is equivalent, not only to a registered bond but to a registered bond with a decree cut and dried, already tacked thereto; and this he gets without stamped paper, registration or litigation, by the mere collusion or consent of the borrower. In this way the stamp and registration laws are easily evaded. I do not think that a state of thing like this was ever contemplated. It does not, however, appear illegal." Such collusive agreements are not mentioned in more recent reports, but I make the quotation as showing the necessity for careful inspection. The Special Judge in his last report says: "Of course, as observed in previous reports, the system has its weak points, and it is necessary that the appointments should be carefully made, and the work done closely though sympathetically watched. Otherwise it has a tendency to become lax."

As has been shown above, the effect of the introduction of the Act has been to diminish litigation by one-half. I do not know whether the proportion of revision cases to total suits disposed of by the Subordinate Courts under the Act is greater or less than the proportion of appeals to suits disposed of under the ordinary law before the Act. Probably it is somewhat higher as the proportion of contested cases is higher. But the diminution in the volume of litigation has been so great that the total number of revision cases per district must be much less than the total number of appeals formerly was. I have, however, no means of judging whether the District Courts would be able to undertake the revision work now performed by the Special Judge, or whether the relief obtained by them from the reduction of appeals has been counterbalanced by the imposition of fresh duties. The revision cases disposed of last year by the Special Judge numbered 761 or 182 per district, and his Assistants reported to him there opinion in 498 cases.

Whatever decision may be come to regarding special agency of different kinds in the four districts where the Act is at present in force, I think it would be advisable, if it is decided to extend the Act to other districts, that an attempt should be made, in the interests of economy, to work it without any special agency. There should be no Village Registrars, no Conciliator

or Village Munsifs, no Special Judge, and no additional Subordinate Courts unless they can be arranged for without extra expense. I think, however, that one experienced Assistant Subordinate Judge would probably be required in each district or group of two districts. The introduction of the Act, judging from past experience, would be followed by a great reduction in litigation which would ultimately reduce the number of appeals. But the District Courts would not at once obtain any relief from the burden of appellate work, except those, if there are any which have no appeals in arrear. The assistance of a Special Subordinate Judge to help in disposing of revision cases would possibly therefore be necessary till the arrears of appeals had been cleared off. When the Act was first introduced, difficulties in the working of the law requiring fresh legislation for their removal were frequent and a Special Officer was required to watch the working of a novel system and to advise Government on the many complicated questions that arose. The case is different now since the Act has developed its present form, and a large portion of the judiciary has become conversant with its application.

27. Before leaving this part of the subject it may, perhaps, be worth while to endeavour to calculate approximately the indirect loss to Government due to the introduction of the Deccan Agriculturists' Relief Act. The immediate loss in receipts from the license tax may be arrived at as follows :—

	License Tax Revenue.		Percentage of Total.	
	1878-79 and 1879-80.	1882-83 and 1883-84.	1878-79 and 1879-80.	1882-83 and 1883-84.
	R	R		
Nine Districts	14,93,279	6,35,785	...	...
Four Deccan Agriculturists' Relief Act Districts	7,31,141	2,94,980	48·9	46·3
Five Districts	7,62,138	3,40,805	51·1	53·7

A sum of R31,152 would have to be added to the revenue of the four Deccan Agriculturists' Relief Act districts for 1882-83 to 1883-84 in order that it should, as before the introduction of the Act, form 48·9 per cent. of the total revenue of the nine districts. Half of this sum, therefore, or about R15,000, represents the maximum annual loss to Government at that time from the introduction of the Act on account of license tax receipts Since then the income tax has taken the place of the license tax. The receipts for the last two years have been :

	Income Tax Revenue.	Percentage of Total.
	1886-87—1887-88.	
	R	
Nine Districts Total	7,91,888	...
Four Deccan Agriculturists' Relief Act Districts	3,79,262	47 8
Five Districts	4,12,626	52·2

A sum of R15,600 would have to be added to the revenue of the four districts in order that it should form, as in the case of the license tax before the introduction of the Act 48·9 per cent. of the total revenue of the nine districts. Half of this sum, therefore, of R7,800, represents the present annual loss on the income tax. But the license tax revenue is probably not a very accurate standard for measuring what ought to be the receipts under the income tax.

The revenue from stamps of all kinds including Court-fees from 1870-71 is shown in the following table :—

	Average.					Percentage of Total.				
	1870-71 to 1872-73.	1873-74 to 1875-76.	1876-77 to 1879-80.	1881-82 to 1882-83.	1886-87 to 1887-88.	1870-71 to 1872-73.	1873-74 to 1875 76.	1876-77 to 1879-80.	1881-82 to 1882-83.	1886-87 to 1887-88.
	R	R	R	R	R					
Nine Districts	22,17,194	18,45,764	16,16,154	14,00,540	15,71,364	...	...	...	...	...
Four Deccan Agriculturists' Relief Act Districts	10,44,413	8,24,495	7,04,697	4,88,221	5,23,724	47·1	44·7	43·6	34·9	33·3
Five Districts	11,72,781	10,21,269	9,11,457	9,12,319	10,47,640	52·9	55·3	56·4	65·1	66·77

The proportion of revenue contributed by the four districts diminished from 1870-71 onwards till in the period preceding the introduction of the Act it amounted to 43·6 per cent of the total. The annual revenue from the four districts in the periods 1881-82 to 1882-83 and 1886-87 to 1887-88 would have to be increased by R2,17,000 and R2,86,000 respectively in order that it should form, as before, 43·6 per cent. of the total. These sums may therefore be taken as representing the annual loss, on the first introduction of the Act and at present. Of the latter sum about R32,000 is due to the exemptions at present in force, as shown in paragraph 25.

The surplus revenue in the Registration Department under Act III of 1877 was as follows:—

	Surplus Revenue.		Percentage of Total.	
	1879-80.	1887-88.	1879-80.	1887-88.
	R	R		
Nine Districts	30,185	64,941	...	...
Four Deccan Agriculturists' Relief Act Districts	15,734	25,476	52·1	39 2
Five Districts	14,451	39,465	47·9	60·8

A sum of R17,449 would have to be added to the surplus of the four districts in 1887-88 in order that it should, as in 1879-80, form 52·1 per cent. of the total surplus of the nine districts. This sum may therefore be taken as respesenting the loss in the Registration Department under Act III of 1877.

Heads.	Annual Loss.
	R
Income Tax	7,800
Stamps	2,86,000
Registration under Act III of 1877	17,400
Total	3,11,200

Whether it can be said that Government have been compensated for these losses by increased revenue under other heads must depend on the answer to the question whether the rayats have materially benefited from the operation of the Act. If they have, as seems to me evident from the statistics I have given, then the revenues, under at least Land Revenue and Excise, must have profited by the improvement. It can only be a matter of conjecture whether the improvement due to greater prosperity has counterbalanced entirely the estimated losses.

Collectors' Returns.

28. I shall now give statistics relating to indebtedness, the extent of land held by savkars, and other matters which have been prepared for me by the Collectors, to whom and to the Director of Agriculture, as regards Bijapur, my most cordial thanks are due for the great trouble they have taken in the matter. These statistics might have been discussed with the registration returns, but several of the district statements only reached me after the rest of this, report was written and the last was not received till the 20th April.

No statistics exist, so far as I know, except for the twelve villages of Ahmednagar already referred to, showing the extent of indebtedness previous to 1880. But the registration returns show whether money-lending has been contracting or expanding, and the figures I am about to give will show where the pressure of debt is most severely felt. If it is seen that a district is heavily indebted compared with others and that loans, as shown by the registration figures, are rapidly increasing, the urgency for interference will be greater than in a case where the burden of debt is light and the number of loan transactions comparatively small.

The first form as sent to the Collectors was designed to show the debts and assets (excluding cash and ornaments) of all families except holders of land and payers of income tax. Unfortunately the headings were not always understood by the enquiring officers, and from the returns submitted I am unable to deduce with confidence either the total number of families or the total number of indebted families, or to say whether the assets shown represent the assets of indebted families only or of indebted and not indebted alike. The only item about

which there is no doubt is the amount of debt of all families, with the exception of landholders and income tax-payers. The only method that occurs to me, by which this information can be utilized, is to suppose that the average number of inhabitants in the villages selected for experiment corresponds with the average number of inhabitants in all villages throughout each particular district, which can be found in the Gazetteers, and to distribute the debt over the population as thus determined. The marginal table shows the amount of debt thus arrived at, but while the holders of land and income tax-payers are included in the population, their debts are not included in the debts shown, so the debts of non-agriculturists must be greater than the figures in the margin.

No.	District.	Amount of debt for every 100 inhabitants.	No.	District.	Amount of debt for every 100 inhabitants.
		R			R
1	Satara . . .	1,193	6	Ratnagiri . .	2,558
2	Poona . . .	1,368	7	Nasik . .	3,805
3	Bijapur . .	1,576	8	Khandesh . .	4,613
4	Ahmednagar . .	1,629	9	Thana . .	7,021
5	Sholapur .	1,823			

It will be seen that the four Deccan Agriculturists' Relief Act districts and Bijapur show more favourable results than the others, and this corresponds with the results obtained for landholders as will be seen further on. The figures however ought not be trusted implicitly because the accuracy of the results depends on two suppositions neither of which can be taken as certain, *viz*, that the average of the villages experimented on corresponds with the average of all the villages in each district, and that the proportion of landholders plus income tax-payers to the rest of the population is fairly constant througbout all the districts. One deduction may be safely made that the indebtedness of non-agriculturists is very considerable.

The returns show, according to castes, in some cases the number of individuals, in others the number of families who have no debts. I have classified these roughly and have shown the proportion which each class bears to the total of unindebted. It will be seen that in several districts low-castes and wild tribes, who have probably no means of borrowing, form a considerable proportion of the whole.

29. Form No. 3, Appendix E, is an abstract of Form No. 2, and, as showing the general results of enquiries into the indebtedness of the rayats, may be taken first:

Occupants not in debt. (1)			Occupants in debt more than 20 times the assessment. (2)		
District.	Per cent. of occupants.	Per cent. of assessment.	District.	Per cent. of occupants.	Per cent. of assessment.
		R			R
1. Thana	46·9	50·3	1. Bijapur . . .	8·1	5·1
2. Bijapur	56·4	49·4	2. Ahmednagar . . .	14·4	8·8
3. Ahmednagar . . .	44·8	40·8	3. Sholapur . . .	11·6	9·5
4. Ratnagiri . . .	34·7	38·1	4. Satara	23·4	17·6
5. Sholapur	42·1	37·1	5. Nasik	28·2	18·4
6. Poona	34·3	35·3	6. Poona	31·6	18·7
7. Nasik	26·8	28·4	7. Thana	29·8	18·9
8. Satara	35·9	27·9	8. Khandesh . . .	32·0	21·7
9. Khandesh . .	23·1	24·6	9. Ratnagiri . . .	43·1	28·3

I have shown the extremes in the above table, the proportion free of debt, and the proportion more or less deeply indebted. The districts are arranged in column 1, according to the largeness in the proportion of land, estimated by the assessment, which is free of debt, and in column 2 according to the smallness in the amount of land of which the occupants are encumbered

In the first column Thana holds a decided advantage over all the Deccan Agriculturists' Relief Act districts, and Ratnagiri a less marked advantage over three of them. The

explanation will be found in Form No. 4, where it is shown that in Ratnagiri 14·6 per cent. and in Thana 18·3 per cent. of the land is registered in the village books as belonging to sawkars, compared with about 6 to 13 per cent. in the four Deccan Agriculturists' Relief Act districts. It may safely be inferred therefore that the more favourable results are owing to the large proportion of land held by money-lenders who presumably are not in debt. The converse is the case in Satara. The reason it is so low down in column 1 is partly because only 6·4 per cent. of the land in that district belongs to sawkars.

It will be noticed that the percentage of assessment in column 1 is generally greater than the precentage of occupants, showing in such cases that those free of debt are the larger holders or the holders of the better sorts of land. The exceptions are Bijapur, Ahmednagar, Sholapur, and Satara. It may be concluded therefore that in these districts a considerable proportion of the occupants not in debt belongs to the class of small holders or holders of poor land. These four districts show the best results in column 2. The figures for all the districts in this column show a greater proportion of occupants than of assessment, showing that those who are most encumbered are the holders of the smallest holdings. This is especially marked in all the districts except the four who have a good many of their poor occupants in column 1. Three of these are Deccan Agriculturists' Relief Act districts, and the fact of the poorer occupants being comparatively less indebted in them than elsewhere must be attributed to the Deccan Agriculturists' Relief Act having curtailed the credit of this class.

Form No. 2 has been prepared by the different classes of officers mentioned. It shows the debts and other particulars of all occupants and their co-occupants and sub-sharers, residing in the villages selected for experiment. Similar information for non-residents would have been procured with difficulty and would have been much less trustworthy, and it was thought advisable therefore not to attempt to obtain it. I shall first give the average rates of assessment in the villages selected. There does not seem to be any connection between the rates of assessment in different districts and the extent of indebtedness. For instance, the rate in Sholapur is about half what it is in Nasik, and the burden of indebtedness is little more than half. While in Ratnagiri with a rate half of that in Thana the burden of debt is very much greater.

District.	Rates of assessment per acre.	District.	Rates of assessment per acre.
1. Sholapur . .	·45	6. Nasik . .	·95
2. Bijapur . .	·59	7. Satara . .	1·1
3. Ahmednagar .	·60	8. Khandesh .	1·2
4. Poona . .	·63	9. Thana . .	1·4
5. Ratnagiri .	·7		

The value of the holdings is given in column 4 of Form 2 at 15 times the assessment. This will not, I think, be considered at all an outside estimate. It would have been impossible to form any accurate estimate of the value of hoards in the shape of cash and ornaments, and the attempt was not made. Column 5 shows the value of all other property, as houses, cattle and household goods. The marginal table shows the value of land and all other property in multiples of the debts. It will be seen that the average rayat is nowhere insolvent, and in Bijapur, Sholapur, and Ahmednagar his financial position would appear to be thoroughly sound. But this is an average between great extremes. It has been seen already that from 23 to 56 per cent. of the rayats in different districts are free from debt, so that for indebted rayats the proportion of assets to liabilities must be very different from that shown in the table. There must be many in all districts who are perfectly insolvent.

District.	Assets in multiples of liabilities.	District.	Assets in multiples of liabilities.
1. Bijapur . .	5·0	6. Poona . .	2·2
2. Sholapur . .	3·8	7. Satara . .	2·1
3. Ahmednagar .	3·6	8. Khandesh .	2·0
4. Thana . .	2·7	9. Ratnagiri .	1·6
5. Nasik . .	2·3		

The next table shows the total debts in number of times the assessment of the land held. These figures are obtained by dividing the total amount of debt by the total assessment including in the latter the assessment paid by indebted and unindebted alike. If the unindebted be excluded, the figures are as in the margin.

District.	Total debts in multiples of the assessment of land held.	District.	Total debts in multiples of the assessment of land held.
1. Bijapur . .	5·5	6. Poona . .	13·7
2. Sholapur . .	7·3	7. Khandesh .	14·6
3. Ahmednagar .	7·4	8. Thana . .	17·4
4. Satara . .	11·5	9. Ratnagiri .	21·3
5. Nasik . .	12·7		

District.	Debts in multiples of assessment of land held by indebted rayats.	District.	Debts in multiples of assessment of land held by indebted rayats.
1. Bijapur . .	11·0	6. Khandesh .	19·4
2. Sholapur . .	11·7	7. Poona . .	21·2
3. Ahmednagar .	12·5	8. Ratnagiri .	34·5
4. Satara .	16·0	9. Thana . .	35·2
5. Nasik . .	17·8		

District.	Land mortgaged.		District.	Land mortgaged.	
	Per cent. of total area.	Per cent. of total assessment.		Per cent. of total area.	Per cent. or total assessment.
1. Bijapur .	6·7	6·3	6. Thana .	14·5	21·4
2. Ahmednagar .	11·3	13·1	7. Poona .	19·5	22·0
3. Sholapur .	14·3	15·5	8. Satara .	27·1	28·9
4. Khandesh	18·5	18·4	9. Ratnagiri .	21·4	67·4
5. Nasik .	17·4	20·4			

The next table gives the proportion mortgaged out of the total area of the land. The districts are arranged according to the smallness of the value of land mortgaged as estimated by the assessment. It will be noticed that in every case, Bijapur excepted, the proportion of area is less than the proportion of assessment, which means that the land mortgaged is above the average in value. The difference is particularily striking in Thana and Ratnagiri. In the last mentioned district while 21 per cent. of the land as measured by area is mortgaged, the proportion is 67 per cent. if measured by value.

The next table shows the proportion of debt secured by mortgage of land to debt not secured by mortgage. The districts divide themselves geographically. Four lying together in which the mortgage-debt exceeds the unsecured debt, comprise the Konkan, most of the hill region of the ghats and the area of certain or fairly certain rainfall and a belt of plain. Five in which the mortgage-debt is less than the debt not secured by mortgage comprise all the rest of the plain country from Khandesh in the north to Bijapur in the south

District.	Ratio of mortgage-debt to debt not secured by mortgage.	District.	Ratio of mortgage-debt to debt not secured by mortgage.
1. Satara . .	1 to ·56	6. Ahmednagar .	1 to 1·96
2. Poona . .	1 to ·70	7. Nasik . .	1 to 2·15
3. Ratnagiri . .	1 to ·83	8. Khandesh .	1 to 2·41
4. Thana . .	1 to ·89	9. Bijapur . .	1 to 3·76
5. Sholapur . .	1 to 1·49		

The Indapur and Bhimthadi Talukas of the Poona District which project into the plain of the Deccan show results similar to those of Ahmednagar and Sholapur. The proportion of mortgage-debt to unsecured debt is 1 to 2·3 in Bhimthadi and 1 to 2·4 in Indapur. The debt in multiples of the assessment is 7·3 in Bhimthadi and 7·5 in Indapur. Assets in multiples of liabilities are 3·2 in Bhimthadi and 3·0 in Indapur. These results are quite different from those of the Poona District taken as a whole. Sirur holds a position geographically as well as in results between Bhimthadi and Indapur on one side and Khed and Junnar on the other.

The next table shows the amount of interest due on total debt for every R100 of total assessment in the different districts. The rates of interest are taken, as shown in the form in the Appendix, as 9 per cent. for mortgage and 24 per cent. for unsecured debt. These seem to be fairly average rates. Bijapur occupies the first place. Then follow the four Deccan Agriculturists' Relief Act districts, then Nasik at a considerable interval, followed by Thana and Khandesh, while Ratnagiri comes last with the truly astonishing figure of 337. Again, I would notice that these are the results, taking indebted and not indebted together. The sums due as interest by the indebted must be considerably higher.

District.	Interest due on debt for every R100 of assessment.	District.	Interest due on debt for every R100 of assessment.
1. Bijapur . .	92	6. Nasik . .	245
2. Sholapur . .	132	7. Thana . .	281
3. Ahmednagar .	140	8. Khandesh .	293
4. Satara . .	166	9. Ratnagiri .	337
5. Poona . .	209		

The method of showing the burden of debt, compared with the assessment of the land held which I have adopted in this table, seems preferable to that of showing the total debt in multiples of the assessment, as it allows for the difference in the rate of interest in the two classes of transactions. The only differences in the order of the districts in this table and the one just given showing debts in multiples of assessment are that Poona has changed places with Nasik and Thana with Khandesh. The changes are due to the ratio of secured to unsecured debt being much higher in Poona and Thana than in Nasik and Khandesh.

The next table shows the mortgage-debt in multiples of the assessment of the land mortgaged. That the existing mortgage-debt by no means represents the original loan, but rather a settlement arrived at of a series of transactions may be illustrated from the following figures from the papers of a village (Siroli Budrukh) taken at random from the returns furnished by the Mamledar of Junnar. There are 114 resident occupants in this village and I have shown all whose debts amount to over 100 times the assessment.

District.	Mortgage-debt in multiples of the assessment of land mortgaged.	District.	Mortgage-debt in multiples of the assessment of land mortgaged.
1. Bijapur . .	15·5	6. Khandesh .	24·1
2. Ratnagiri . .	17·3	7. Satara . .	25·6
3. Sholapur . .	18·9	8. Poona . .	36·6
4. Ahmednagar .	19·0	9. Thana . .	42·8
5. Nasik . .	19·7		

Occupants.	Land held.		Assets.			Liabilities.			Land mortgaged for debt.		Mortgage-debt in multiples of the assessment of land mortgaged.
	Area.	Assessment.	Value of land at 15 times the assessment.	Value of other property.	Total.	Debts secured by mortgage of land.	Debts not secured by mortgage of land.	Total.	Area.	Assessment.	
	A. g.	R a.	R a	R	R a.	R	R	R	A. g.	R a.	
Sakharam Sagaji Thale . .	6 6	5 10	84 6	25	109 6	800	...	800	...	...	...
Mohonaji Yesaji Thale . .	16 2	7 7	111 9	100	211 9	500	300	800	16 2	7 7	67·
Babdya Santaji Thale . .	0 10	0 6	5 10	175	180 10	800	...	800	0 10	0 6	2,133·
Mahadu Bagaji Thale . .	1 36	2 10	39 6	75	114 6	600	...	600	1 36	2 10	228·
Trimbak Tatya Thale . .	0 25	1 3	17 13	300	317 13	1,200	...	1,200	0 25	1 3	1,010·
Krishnaji Narayan Thale . .	1 38	2 14	43 2	350	393 2	600	800	1,400	1 38	2 14	208·
Laxuman Panduji Thale . .	2 0	4 8	67 8	100	167 8	175	500	675	2 0	4 8	38·
Gopala Kusaji Thale . . .	12 5	6 0	90 0	95	185 0	650	100	750	12 5	6 0	108·
Subhana Kashiba . . .	0 30	0 12	11 4	150	161 4	1,300	...	1,300	0 30	0 12	1,733·
Awji Bapji Mali	2 16½	3 9	53 7	175	228 7	1,200	...	1,200	2 16½	3 9	336·
	44 8½	34 15	524 1	1,545	2,069 1	7,825	1,700	9,525	38 2¼	29 5	239·

The Mamledar has not given particulars of the land mortgaged by the first man. The total mortgage-debt of the rest is 239 times the assessment of the land mortgaged. If the selling value is taken at 15 times the assessment, the loans on mortgage come to about 16 times the selling value. It will be noticed that the value of the other property belonging to these men is about three times the value of their land. They doubtless had credit apart from their land and borrowed on personal security originally. As the debts grew, the lenders would take the land as additional security.

I have in the above remarks assumed the substantial accuracy of the returns, and I think the assumption is well founded for several reasons :

a.—They have been prepared over very wide areas, sufficient to eliminate all chance of serious error in deducing a general average. That it is necessary to embrace large areas for this purpose is shown by the fact previously noted that two of the twelve villages, where the Special Mamledar and myself spent much labour in obtaining correct figures, gave very different results from the rest.

b.—The results obtained by different classes of officers do not, as a rule, present great differences, and where there are differences they can usually be accounted for. The Sub-Registrars, for instance, generally made enquiries at their head-quarter stations where land as a rule is more valuable than in outlying villages. The most remarkable differences in this respect will be found in Thana and Ratnagiri. With the exception of two Sub-Registrars in Thana, all the Sub-Registrars of these districts gave statistics for their head-quarter towns. In the case of both districts the rate of assessment in the Sub-Registrars' returns is twice as great as in the Mamledars' returns, and there can be no doubt that land in the close proximity of large towns has a special value as compared with that in outlying villages. This will account for the larger debts in the Sub-Registrars' returns, as the occupants with more valuable land have had more credit. In Khandesh the Collector assigned villages to the Sub-Registrars, outside their

head-quarters, and in that district the results obtained from the Sub-Registrars' figures are almost identical with those obtained from the Mamledars.

c.—The results obtained by the special Mamledar in Ahmednagar may be accepted with confidence, and they do not differ materially from the results obtained for the whole district. It might have been otherwise had the various talukas of Ahmednagar differed as much from each other as do those in different parts of the Poona District. The great differences observable between the results for Indapur and Bhimthadi on the one hand and Junnar and Khed on the other might have created suspicion, but there is no ground left for suspicion when it is found that the results for the two former talukas coincide with the results obtained for Sholapur and Ahmednagar which are similar in soil and climate, while Junnar and Khed are not.

d.—The results obtained by Mr. W. S. Price of the Survey Department and the two District Inspectors in Bijapur, considering the small area of their experiment, do not differ more than is consistent with the accuracy of both sets of figures, from the average of all classes of officers who made enquiries in the district. Whichever set of figures be taken, Bijapur stands out prominently as the least encumbered district of the nine.

e.—Mr. Snow, First Assistant Collector of Satara, tested the returns prepared by Mamledars of four villages and found "the information correct with the exception of one or two trifling discrepancies." Mr. Deshmukh, Assistant Collector in the same district, tested the returns of two villages, but does not say with what result. Had there been any important errors he would certainly have said so. A similar remark applies to one village tested by Mr. Scott, Deputy Collector also in Satara. Mr. Deshmukh prepared the returns for one village *de novo*, but does not say whether there were inaccuracies or omissions in the original returns or not.

f.—The village registration returns give statistics of purely agriculturist transactions. They show that mortgages are much more frequent in Poona and Satara than in Ahmednagar and Sholapur. Redemption suits have also been much commoner in the two former than in the two latter districts. From this one would infer that mortgage-debt must be much larger in proportion to unsecured debt in Poona and Satara than in Ahmednagar and Sholapur, and this is exactly what is brought out by the statistics.

The returns prepared with great care for one village of Nandgaon by Mr. Doderet, First Assistant Collector of Nasik, are very different from the average of the rest of the Nasik District. But the village selected appears to be exceptional in several respects, particularly in the character of its money-dealing transactions as shown by the minute proportion (1 to 50) which the mortgage-debt bears to the debt not secured by mortgage. The average assessment is R·88 compared with R·66 in the other villages where enquiries were made in the taluka. The village is one of a small group above the Satmala hills intermixed with the Nizam's territory. "The soil is black and produces late dry-crops such as wheat, jowari, linseed, safflower, castor, and grain * *. The late rains hardly ever fail in this tract, and the soil being good, the more valuable kinds of crops can be sown with every chance of a good harvest."

Mr. Doderet says in his report: "The work in Baglan has been carefully done. I much regret that press of jamabandi work prevented me from testing any of the figures for this taluka personally, but the Mamledar is a careful and painstaking officer and his figures may be relied on, especially as the general conclusions to be formed from them agree with those formed by Mr. Davidson after a long acquaintance with the taluka and on personal enquiries made in the large agricultural village of Sompur."

Mr. Fraser, Second Assistant Collector in Nasik, writes: "I tested the information from which the forms have been prepared in one village, Shaha, of the Sinnar Taluka, and was struck with the difficulty of ascertaining what the actual present liabilities of any debtor are. As suggested by Mr. Woodburn, the sawkars were made to attend, but they were as unwilling as the rayats were unable to state how their debts stood. In each case the debtor was only able to say what was the original sum, but as this debt not infrequently was inherited from his father, its present amount, owing to accumulations of interest and manipulations in various ways by the sawkar, was a different thing." It seems probable that in this village the present amount of debt may have been understated

in the returns, but it would be unsafe to generalise from one example. In the villages which I examined in the Ahmednagar District the sawkars showed no unwillingness to state the amounts due to them.

30. Form No. 4 shows the land actually registered in the village rent-rolls as the property of money-lenders. I have prepared two abstracts showing how the land is divided between money-lenders and non-money-lenders, and how the share of the former has increased or decreased since 1876-77. To take the districts separately. In Poona the sawkars' share in the land rose from 13·7 per cent. in 1876-77 to 14·7 per cent. in 1883-84; since then it has reverted to the figure for 1876-77. In Satara there was a large increase from 5·2 per cent. in 1876-77 to 6·1 per cent. in 1883-84, and a much smaller increase in 1887-88. The share of land occupied by sawkars in Satara is still much less than in any other district, and considering that 28 per cent. of the land is mortgaged, it is not surprising that sawkars should have increased their holdings. In Ahmednagar there was a slight decrease in 1883-84, and there has been since then a decrease similar to that in Poona. Sholapur presents curious results, *viz.*, a considerable decrease in 1883-84, and equally large increase in 1887-88, so that now the share of land held by sawkars is much the same as it was in 1876-77. The decrease amounting to 19 per cent. in 1883-84 must, I think, be attributed in some way to the effects of the famine from which Sholapur suffered very severely. There was an immense extent of land thrown out of cultivation. The rayats who were left in their holdings would find it hard enough to farm their own lands and probably in the dearth of agricultural labour the sawkars found they could not cultivate all their holdings and gave up a good deal of their poorest land rather than pay the assessment without getting any profit. The increase since 1883-84 may be due to the working of the law, but I do not think this is likely considering the results in Poona and Ahmednagar, and the fact, which I think, is established by many of the statistics I have given, that the rayats of Sholapur are at present among the most flourishing of the Deccan. As a consequence of the famine there was in Sholapur a very large area of waste which has been taken up in the last few years, and to account for the result shown, it would be only necessary to suppose that sawkars bought up more land in proportion to the size of their existing holdings than the ordinary cultivating classes. Their greater wealth placed them in a position to do so if they wished. That there has been a considerable demand for land on the part of sawkars is shown by the statement attached to the Honourable Mr. Stewart's report previously referred to. Out of 6,495 acres of land assessed at R4,689, stated to have been recently acquired by capitalists in Sholapur, it is said that the owners of 3,755 acres assessed at R2,955 are "sawkars who have purchased land." This probably does not mean waste land purchased from Government, but if they bought land from private owners, there is every probability of their having invested in waste land when it was available.

In Khandesh and Nasik the share of sawkars in waste land has steadily increased in both periods. In Thana there was a large increase in 1883-84 compared with 1876-77 and a less increase in 1887-88. In Ratnagiri there was a decrease in 1883-84 and a large increase in 1887-88.

In none of the Deccan Agriculturists' Relief Act districts except Satara is the share of land held by sawkars greater now than in 1876-77. In all the other districts the share of sawkars is larger. The following table shows the changes:—

1876-77.		1887-88.	
District.	Share of land held by sawkars.	District.	Share of land held by sawkars.
	Per cent.		Per cent.
Satara	5·2	Satara	6·4
Khandesh	8·0	Khandesh	10·0
Nasik	8·2	Sholapur	10·0
Sholapur	10·3	Nasik	10·5
Ratnagiri	12·2	Ahmednagar	12·9
Thana	12·9	Poona	13·7
Poona	13·7	Ratnagiri	14·6
Ahmednagar	13·8	Thana	18·3

It may be perhaps as well to mention that the famine of 1876-77 did not affect the village rent-rolls of that year. Any changes due to the famine would not appear in the rent-rolls till the following year at the earliest. I selected the year 1876-77 as showing the state of matters before the famine.

I may also mention that in some cases the Mamledars omitted to give information in Form No. 4 for non-resident occupants. As sawkars are much more frequently non-resident than other occupants, I thought it better to reject all returns from which non-residents had been excluded. The talukas which are thus not represented in this return are stated in the margin. There is little chance of error in preparing Form No. 4, as the village officers can say for certain with respect to each occupant shown in the rent roll, whether he is or is not a sawkar.

Poona . . .	Maval.
	Haveli.
Khandesh . .	Chalisgaon.
Ratnagiri . .	Malvan.
	Devgad.
	Sangameshvar.
	Khed.
	Mandavgad.

The last form showed how the land is shared between sawkars and non-sawkars, *according to the village books*, but it is everywhere customary for land to be transferred, as for instance when a mortgagee is put in possession, without the transfer being recorded in the village books The Collectors have prepared for me a statement (Form No. 5) showing the extent of land actually held by sawkars whether standing in the village books in their own or in other peoples' names. The marginal tables give the results, the districts being arranged according to the value of the land estimated by the assessment. The order of the districts does not differ from that resulting from Form No. 4, except that Satara now comes below Khandesh and Sholapur. But Form No. 5 shows that the land actually in the sawkar's possession is double that standing in their own names and in the case of Satara more than three times as much. Their aggregate holdings are very large. It will be obvious that it would be extremely difficult to obtain accurate figures in a similar form for an earlier year so far back as 1876, as no record exists of the actual state of matters then, and the return would depend entirely for its accuracy on the memory of village officers. I asked for a return for one village in each taluka for 1876-77, but I do not consider the figures worthy of confidence. They show a less proportion of land held by sawkars in other people's names than the returns of 1887-88, but I know of no reason for supposing that the custom of transferring possession without any alteration in the village books has become more prevalent than formerly.

District.	Share of land possessed by sawkars.		District.	Share of land possessed by sawkars.	
	Per cent. area.	Per cent. assessment.		Per cent. area	Per cent. assessment.
1. Khandesh .	16·7	18·4	5. Ahmednagar	22·4	23·9
2. Sholapur .	19·4	20·5	6. Poona .	24·9	27 7
3. Satara .	18 1	22 9	7. Ratnagiri .	29·6	30·4
4. Nasik .	18·4	23·3	8. Thana. .	31·0	36 7

Form No. 6 shows the land held by persons of particular castes at different periods. The castes have been selected generally as representing professional money-lenders. In Bijapur money-lending is practised by so many different castes that it is difficult to say which are most prominent in this respect. Figures have been given for Brahmins and Lingayets, but it is not known what proportion of those entered do actually engage in money-lending. In Poona, Satara, Ahmednagar, and Nasik none but Marwari and Gujrat Wanis are shown. These may all safely be reckoned as professional money-lenders. In Sholapur, Khandesh, Thana, and Ratnagiri holdings belonging to persons of a variety of castes have been entered according as they practised money-lending in the villages selected.

The figures of area and assessment may perhaps not be very trustworthy for the earliest period (1854-55) and none are available in Thana down to 1864-65. In some cases also they appear anomalous at later dates. For instance, in Ahmednagar in 1887-88 as compared with 1874-75 there is a considerable decrease in area and a slight increase in assessment. This is due to the revision survey operations that took place between the two dates. The area of the land held has decreased, but the assessment of that which remained has been increased considerably. Again, Ratnagiri shows a very large increase of area in 1874-75, accompanied by a small increase of assessment, but it should be remembered that the original survey is not yet completed and that the information as to areas is still far from perfect in that district.

The return shows that from 1854-55 to 1874-75 there was a very large increase in sawkars' holdings. In 1887-88 compared with 1874-75 the increase still progressed rapidly in the five districts outside the Act, while in three out of the four Deccan Agriculturists' Relief Act districts there was a decrease, and in Poona the increase was considerably less than in any of the five districts outside the Act.

31. I wished to obtain information regarding the rate at which waste land has been taken up for cultivation and the prices realised at the sales of occupancy rights. Both seem factors of some importance in judging of the condition of the rayats. I sent a form to the Collectors asking them to fill in the area and assessment of waste lands sold in their districts, and the prices realized at the sales during the last five years. There is, however, no account from which these figures can be obtained and the information supplied to me is misleading. For instance, in some cases land of unknown extent, given for cultivation to Bhils and others, has been included in the area sold, although the occupancy right was not sold. In others the amounts realized by the sales of building sites has been included in the amount realized by the auction sale of waste land, and in other cases the area shown as sold in one year is partly land the sale proceeds of which have been brought to account in the previous year. But even if the true areas and prices could have been obtained, the figures would have been vitiated by another circumstance. In some districts where forest demarcations have been in progress, and has been given out on special terms and the prices therefore were not such as would have been realized had the occupancies been sold outright.

In nearly all, if not all the districts, there have been restrictions on giving out waste pending forest demarcations, and it would be impossible to determine to what extent this has checked the rapidity with which waste has been taken into cultivation. I may, however, give the following figures taken from the annual Jamabandi reports :—

Percentage Increase or Decrease in cultivated area in 1886-87 compared with 1882-83.

No.	District.	Per cent. Increase.	Per cent. Decrease.
1	Poona	4·2	...
2	Satara	·3	...
3	Ahmednagar	6·8	...
4	Sholapur	6·6	...
5	Khandesh	...	3·6
6	Nasik	3·9	...
7	Thana	...	9·3
8	Bijapur	6·0	...

The smallness of the increase in Satara is due to the fact that there was very much less waste available there in 1882-83 than in any other district. In fact the proportion of waste to cultivation was less in Satara in 1882-83 than it is now in any district except Poona. The figure given for Khandesh is suspicious. The Collector in his administration report for the year 1886-87 says there was a small increase in that year over the previous one, and the Jamabandi report for 1885-86 shows an increase of 2·4 per cent. over the cultivated area of 1882-83. The table just given is, on the face of it, very favourable to the four Deccan Agriculturists' Relief Act districts. The waste available is now small in all of them, much smaller than it is in Khandesh or Bijapur and considerably less than in Nasik and Thana. But as I have said above the unknown complications of forest demarcations detract somewhat from the value of the figures. Considering, however, the four districts by themselves, the progress made in bringing waste into cultivation, in spite of the obstacles caused by demarcation proceedings, speaks well for the enterprise and resources of the rayats. Nearly all the demarcation in Ahmednagar was done by me, and I can speak from my own experience of the very keen demand for land all over the district.

Although I have failed in obtaining what I most wanted, the average selling price at true auction sales of waste lands in the different districts over a series of years, I have some other figures showing the value of land which may be worth quoting. The first table shows the results of true auction sales of waste land in two villages of Khandesh and one of Ahmednagar, and the figures are given as showing the prices that may be realized in exceptional

circumstances. The land in Khandesh was only lately broken up into survey numbers. The revised survey has been introduced into Chopda and Parner and the assessment of the land sold in these talukas is at revision survey rates :—

District.	Taluka.	Land sold.		Amount realized at auction.	Sale-proceeds in multiples of assessment.	Average assessment per acre of land sold.
		Area.	Assessment.			
		Acres.	R	R	R	R a. p.
Khandesh . .	Shahada . .	2,011	772	25,700	33	0 6 1
Do. . .	Chopda . .	1,569	2,981	73,692	24	1 14 4
Ahmednagar . .	Parner . .	315	76	805	10	0 3 10

The Collector of Khandesh informs me that all the purchasers were genuine cultivators. Five of the total number (132) were money-lenders as well. The purchase money was paid without the slightest difficulty.

In 1887 the Inspector General of Registration laid before Government a report on the sale, mortgage, and lease value of assessment-paying land, as deduced from over 53,000 entries in the Registration books all over the Presidency. The following is an abstract of the results so far as regards the districts now under report :—

Comparative Statement of sale, mortgage, and lease value of land in number of times the assessment (paragraph 45 of Inspector General of Registration's No. 1058 of 14th May 1887).

District.	Earlier Period, 1860-1875.			Later Period.			
	Sales.	Mortgages.	Leases.	Years.	Sales.	Mortgages.	Leases.
Poona . . .	52·19	25·23	2·90	1879 to 1884	30·21	21·16	3·15
Satara . . .	25·00	23·08	2·98	1880 to 1884	27·60	19·19	2·41
Ahmednagar . . .	14·94	15·05	2·51	1879 to 1884	14·93	13·22	2·70
Sholapur . . .	15·75	18·50	2·80	1880 to 1884	11·90	11·05	2·32
Khandesh . . .	9·25	8·44	1·43	1879 to 1885	12·05	10·55	2·13
Nasik . . .	17·54	14·79	2·03	1879 to 1883	15·61	13·97	1·40
Thana . . .	15·15	8·73	2·06	1878 to 1882	12·99	12·44	1·90
Ratnagiri . . .	45·49	30·7	2·35	(1) 1879 to 1883 or 1884 (2) 1879 to 1883 or 1880 to 1884.	(1) 42·32	(2) 37·49	(3) 2·36
Bijapur . . .	10·78	13·35	2·49	1879 to 1883	11·75	13·11	1·98

The sale and mortgage values as shown in the books in the Registration Department do not in many cases, perhaps in most, represent the true sale and mortgage values, but rather the accumulations of debt, principal and interest, which result in the transactions registered. While referring to this in his report above noted, the Inspector General writes of leases :—

Very early in the course of prosecuting my enquiries in connection with this report, I arrived at the conclusion that the information derivable from leases as to the value of land was more reliable than that to be obtained from sales or mortgages, and this opinion I have found to be largely shared by many district officers with whom I have conversed on the subject. It appears to me that in a transaction involving the payment at stated intervals, through a more or less lengthy period, of certain specific amounts the temptation to abstain from setting forth in the instrument the whole of the surroundings of the transaction is less than in a case where A is selling his holding to B, or C is mortgaging his fields to D.

In the earlier period included in the above table the four Deccan Agriculturists' Relief Act districts show higher lease values than any others, and three of them have maintained their position in the second period, while the fourth, Sholapur (2·32), is only passed by Ratnagiri (2·36).

In connection with the price of land it only remains to mention the results of sales conducted by Collectors in execution of decrees of Civil Courts. A record showing the prices

realized has been kept for only two years, and in the case of certain districts the amount of mortgage lien has been given for one year only.

The following table shows the results :—

District.	Year.	Land sold.		Amount.			Proportion of price (column 6) to assessment (column 3).
		Area.	Assessment.	Of mortgage lien.	Of sale.	Total.	
1	2	3	4	5	6	7	8
		Acres.	R	R	R	R	
Poona	1886 and 1887	1,170	808	1,514	20,719	22,719	27·5 to 1
Satara	Do. .	706	963	247	15,889	16,136	16·7 to 1
Ahmednagar . . .	Do. .	2,588	1,700	6,993	22,449	29,442	17·3 to 1
Sholapur	1887 . .	399	281	368	5,969	6,337	22· to 1
Khandesh	1887 . .	5,314	6,073	3,391	46,941	50,333	8·2 to 1
Nasik	1886 and 1887	5,661	4,780	43,250	34,140	77,391	16·1 to 1
Bijapur	1887 . .	648	381	213	5,060	5,274	7·7 to 1

The area of waste available for cultivation is greater in Khandesh, Nasik, and Bijapur than in the four Deccan Agriculturists' Relief Act districts, but I should not think that this can account more than partially for the much better prices realised in the latter than in the former districts. The period for which information is given is too short to warrant any very decided expression of opinion, but taken in conjunction with the other facts noted in this paragraph, the figures point to the conclusion that land is more valuable in the four districts than in the three others.

32. The Collectors of Khandesh, Nasik, Thana, Bijapur, and Ratnagiri were directed to report whether in their opinion it is desirable to extend the operation of the Deccan Agriculturists' Relief Act, either wholly or partially and either with or without modification, to their districts; and whether if they favour such extension, the operation of the Act should cover some or all of the agricultural classes, any other classes, or the whole community. They were requested to submit their opinions to Government through the Special Officer.

As to the principles which ought to guide a decision in a matter of this kind, I beg to quote some sentences from Mr. Stanley Jevons, "The State in Relation to Labour."

The all-important point is to explain, if possible, why in general we uphold the rule of laisser faire, and yet in large classes of cases invoke the interference of local or central authorities. This question involves the most delicate and complicated considerations, and the outcome of the enquiry is that we can lay down no hard-and-fast rules, but must treat every case in detail upon its merits. Specific experiment is our best guide, or even express experiment where possible; but the real difficulty often consists in the interpretation of experience. * * *

If my study of this subject has led to any true results—the first step must be to rid our minds of the idea that there are any such things in social matters as abstract rights, absolute principles, indefeasible laws, inalterable rules, or anything whatever of an eternal and inflexible nature. * * *

The law itself has nothing to do with conscience, nor religion, nor even with moral right and wrong, as estimated by individuals. Moreover, it knows nothing of absolute principles from which we must not diverge. It is but a series of arbitrary rules accumulated or varied from century to century, and defining the terms on which people may best live in each other's society. It is a system of adjustments and compromises founded upon experience and trial. The complication of social relations is such that no simple unqualified laws can hold good in all cases; necessary exceptions spring up as soon as ever we try to establish a general proposition. It might surely be thought, for instance, that a man would be free to buy and sell as he thought best. Barter, moreover, being the original simple form of commerce, would *à fortiori* seem to be open to every free subject. Yet since the fourth year of Edward IV (Chapter I) laws have existed prohibiting the payment of wages in the manner of barter. Even in the present day the Truck Act is in full operation, and in a number of specified trades inflicts penalties on any settlement of wages by way of barter, the third offence being treated as a misdemeanour punishable by fine only at the discretion of the Court. * * *

It may be imagined again, that a person has an absolute right to his own property. Apart from the difficulty of defining what is his own property, a cursory examination of the statute book would show that this absolute right has been invaded in every conceivable way * * *. The new Irish Land Act is destructive to the absolutist theory, as regards Ireland at least; that Act has been denounced as contrary to all the principles of political economy. But when a country has arrived at a state of social disorganisation the probabilities of good implied in those principles are met by certainty of evil, and the question simply is by what least sacrifice to approximate to a sounder state of things. * * *

I think it is well to show by example that the Legislature has fully conceded, even for adult men, the principle of 'grandmotherly legislation,' if principles must be spoken of. I may mention again the Truck Act as a standing proof that men have been held to need the protection of the State in some of the simplest transactions of life. The freedom of contract is actually destroyed by such laws. It is only necessary again to mention the Coal Mines Act and the Metalliferous Mines Act or the complicated series of Acts relating to merchants shipping, to show what a mass of legislation has already been sanctioned for the protection mainly of adult men. The provisions of the law to repress crimping and imposition by the keepers of seamens' lodgings are especially a case in point. Any person can be fined five pounds who on board a ship within twenty-four hours of herd arrival solicits a seamen to become a lodger. (Other examples are given from the Factory Acts. * * *

It may be fearlessly said that no social transformation would be too great to be commended and attempted if only it could be clearly shown to lead to the greater happiness of the community. No scheme of Bellers, or Babeuf, or Robert Owen could be resisted, if only their advocates could adduce scientific evidence of their practicability and good tendency. No laws, no customs, no rights of property are so sacred that they may not be made away with, if it can be clearly shown that they stand in the way of the greatest happiness. *Salus populi suprema lex.* But it ought to be evident that before we venture on a great leap in the dark, we may well ask for cogent evidence as to the character of the landing place. * * *

Before passing any great Act of Parliament which will involve the whole of an extensive trade or class is some irrevocable or costly change, we ought to try experiments and thus obtain the most direct and pertinent evidence concerning the probable result. * *

There is manifest advantage in making a legislative change in certain cities or districts only, so that we may observe what happens both where the change is in operation, and also in closely proximate places where it is not in operation.

I have quoted, I hope, at not undue length the history of indebtedness as given by the Deccan Riots Commission, because it is only in the light of past experience that any fresh legislation can be attempted with success. The rayat has been the subject of experiment for the last 60 years, and it seems to me that the prominent point to be noticed as regards his relation with the money-lender is that he has been found quite incapable of making a prudent use of extended credit. From a tenant without power of transfer he became at the introduction of the survey in effect a landed proprietor. His implements and cattle were at first protected from seizure, but by the Civil Procedure Code of 1859 everything he possessed became liable to attachment. The inflation of prices during the American War followed, and all these circumstances had the effect of greatly increasing his credit, of which he took full advantage by borrowing to the extent of his power.

The extent of a rayat's credit depends on the estimate formed by the lender of his ability to enforce repayment. It has therefore been considerably curtailed by the Deccan Agriculture ists' Relief Act. It is worth while I think to consider in what way the curtailment of a rayat's credit is likely to affect him. It ought to be used to supplement his capital. His capital consists of his land, his bullocks and stock, and his implements, the last mentioned of the most trifling value. Expensive fencing, farm buildings and machinery, drainage and costly artificial manures are things beyond his thoughts. The improvements he can effect on his land by the application of fresh capital are by damming, terracing, levelling, and well-sinking. The first three operations can usually be carried out by his own labour, and well-sinking is an investment so extremely speculative, at least in the parts of the Deccan with which I am acquainted, that it ought never to be attempted except by a man who can afford to lose every pie he spends on it. I have made a fairly minute inspection of every part of the Ahmednagar District, and the number of abandoned well-shafts is quite surprising, or rather would be surprising, if one did not know the absolute faith that the ordinary rayat places in the professional "water-seer." Owners of garden land have often to borrow money in order to raise the more valuable irrigated crops, but this is entirely due to their own improvidence. The same remark applies to loans for seed or for paying the Government assessment. Borrowing for these purposes could always be avoided by the exercise of a little foresight and thrift. That the Deccan Agricultrists' Relief Act encourages these virtues is one of the strong points in its favour.

So far as I can see the only real occasions when the ordinary rayat may need a loan in connection with the operations of husbandry are when he loses his bullocks, or when there occurs a year of drought. If he loses his bullocks in an ordinary year and has no means of replacing them at once, he generally finds little difficulty in cultivating his fields by going into partnership with some one who has been less unfortunate. It is different in a year of drought. Then he and his family have to support themselves or be supported for a year without the expected crop. At such a time no loans will save his cattle. If they die, they will have to be replaced. Whether in such a year he will find himself in a worse position if the Deccan Agriculturists' Relief Act applies to him than if it does not remains to be seen. But I think this may be said that a rayat who has been taught a certain amount of thrift by the operation of the Act will as

a rule be better prepared to face calamity successfully than one who has always been able to borrow on the slightest occasion. It is a mistake to suppose that in the last famine the rayats were generally supported by their sawkars. In one of my own talukas I took a census in December 1876 and found that one-third of the population had gone. Whole villages were deserted. Thousands of people from Sholapur and Poona passed through my charge. There was a region of comparative plenty five or six days' march to the north, and there they went. Mr. H. Woodward, C. S., in his report of 1883 mentions a similar case when there was a succession of bad years both before and after the introduction of the Act in the Kopargaon Taluka. The rayats one way and another contrived to support themselves without the aid of the sawkars. My impression is that when a similar drought comes again, well-to-do rayats will get help from their sawkars if they need it. The Kunbi is the Marwari's cow, as the saying goes, and is too valuable an animal to be allowed to perish. The poor, as formerly, will have to shift for themselves.

Leaving Bijapur apart for the moment, the general result of the working of the Act at compared with that of the ordinary law may be briefly summed up :

In the four Districts where the Act applies.

(1) The burden of debt has decreased and is decreasing.

(2) The burden is now less than in districts outside the Act. The contrast between the extremes is remarkable.

(3) The acquisition of land by sawkars has been checked. This is specially noticeable in the case of castes whose profession is money-lending.

(4) The land revenue is more easily collected than in other districts.

(5) Outstanding balances are smaller, irrecoverable balances are less.

(6) Excise revenue shows greater improvement.

In the four Districts where the ordinary law applies.

(1) The burden of debt is increasing as shown by the registration figures and the returns of Civil Court sales.

(2) The burden is very heavy, greater than in any of the four Deccan Agriculturists' Relief Act districts, and in some cases the difference is enormous.

(3) The acquisition of land by sawkars steadily progresses.

(4) The land revenue is less easily collected than in the four Deccan Agriculturists' Relief Act districts.

(5) Outstanding balances are greater, irrecoverable balances are larger.

(6) Excise revenue shows less improvement.

The reports of three Collectors are forwarded with this. As regards Khandesh Mr. Loch is opposed to the introduction of the Deccan Agriculturists' Relief Act. It seems to me there is a necessity for interference. From the natural advantages of their position the rayats ought to be extremely well off. But instead of enjoying all the fruits of their labour themselves, they pay a great part of it to their sawkars. Mr. Loch says that in the centre and east there has hitherto been a margin of good waste land to fall back upon; but that now the population is from 200 to 250 per square mile and all the good land is occupied, and that it will be interesting to watch the development of agricultural society under these gradually changing circumstances. I think the returns of the Registration Department and of Civil Court sales show very clearly what is going on and what will happen ; and I think it would be more prudent to interfere when the rayats and sawkars are on fairly cordial terms than to wait till their relations are embittered. The Bhils in West Khandesh have always been a difficult problem. I do not see that the introduction of the Act would affect them much. Their cattle are under the present law not liable to attachment; their land, Mr. Loch says, is not transferable; they can scarcely ever be imprisoned under the existing law and their sawkars deal with them on accounts, so that their claims would be easily proved in Court compared with those of Deccan sawkars dealing on bonds.

The Collector of Nasik and his First Assistant Collector, Mr. Davidson, advocate the introduction of the Act in whole or in part. I need scarcely say that with the statistics I have given before me, I quite agree with them. I would beg particular attention to the statistics of indebtedness given by Mr. Davidson, and to the fact that he was so strongly impressed with the gravity of the situation in Nasik that he desired to see the Act introduced even though he anticipated that the first effect would be to almost ruin the smaller sawkars, and cause extreme difficulty to the rayats in paying the Government revenue.

The Collectors of Thana and Ratnagiri have not sent reports. But the burden of debts is enormous. Sales and mortgages are rapidly increasing. Thirty per cent. of the land in Thana and 36 per cent. in Ratnagiri has passed into the possessin of sawkars. The necessity for interference in both districts seems more urgent than elsewhere. It is questionable whether anything that can be done will ameliorate the condition of the Khoti tenant in Ratnagiri, who pays half his gross produce to the Khot; but I do not see that the introduction of the Act can do him any harm. His tenancy is already not transferable, so he does not require the protection of section 22. This provision would, on the other hand, be most beneficial for the dharekari.

As regards Bijapur it will be seen that the information I have collected goes to prove that the rayats there are in a much more favourable position than anywhere in the nine districts. The statistics amply confirm the observations of Messrs. Harvey and Deshpande, who have had the opportunity of comparing the district with Ahmednagar. The Collector, Mr. Ebden, proposes the extension of certain provisions of the Act, and I agree with what he says to a considerable extent.

I come now to the question of whether the Act should be extended in whole, or in part only, to different districts, and whether any modifications should be made.

There are certain parts of the Act which are not essential to its successful working These are Chapters V, VI, VIII, and IX. I should not recommend that any of these be made anywhere applicable.

The provision most open to reasonable objection on the part of those who have invested money in loans to agriculturists is section 22. Loans on personal security have been made in the belief on the part of the lender that the money could eventually be recovered by sale of the land if it was not mortgaged in the meantime, and even then the difference between the mortgage value and the sale value would be realizable. To apply section 22 is to deprive the lender of part of his security. Nevertheless, this provision is in my opinion one of the most necessary in the whole Act, and should certainly be made applicable, as the state of indebtedness in the different districts except Bijapur shows that half measures will do little good. It must be remembered also that from 1859 to 1877 legislation was unduly favourable to sawkars. They have therefore the less cause to grumble if some protection is extended to borrowers at their expense. I do not believe that the application of the provision can in any way curtail the true credit of the rayat. His credit is made up of what the lender considers could safely be lent without mortgage of the land *plus* the amount that could be safely lent on mortgage alone. The value of the provision is that it makes a careless or imprudent borrower understand his circumstances. If his credit is good enough to enable him to raise a loan without mortgage, well and good. He has his choice between a loan at high interest on personal security, or a loan at a low rate on mortgage. If the borrower's credit does not justify the lender in giving a loan on personal security, the land is mortgaged or not as circumstances may require. But in the absence of a provision of the kind such a man would raise a loan on personal security although his means of paying, except by alienation of his land, might be almost *nil*, the lender on his part looking to the land as his security for the loan.

In the interest of creditors, however, I think that sections 22 and 29 should be modified so far as relates to past transactions by the omission of the words "and which, in the opinion of the Collector, is not required for his support and the support of the members of his family dependent on him." Those words have made the section inoperative in the past. Even if they are omitted the rayat in districts to which the Act may be newly applied will be in a better position than he is now, as he will get back his land in seven years instead of losing it altogether as he may do under the present law. I have some doubt whether the section, even with the proposed amendment, will work as the rayats may combine to prevent any one cultivating the attached land; but it would be but fair to creditors to try the experiment. The period of attachment might be extended beyond seven years. As regards future transactions I think it would be much preferable to omit the second clause of section 22 altogether, that is, to make it impossible for the rayat to lose his land by a Court decree unless it has been specifically pledged. The rayat would then understand on the occasion of every loan what he was about and would not be deceived by the fiction that he was borrowing on personal security when in reality he was borrowing on his land.

The law of imprisonment for debt has been greatly modified lately in favour of judgment-debtors, but it may be long before the people thoroughly understand the change. One or two cases of imprisonment would probably convince the people of a locality that there had been no alteration. If the Deccan Agriculturists' Relief Act therefore is extended to other districts, I think section 21 should be retained.

It is difficult to arrive at a satisfactory opinion about section 15A. On the one hand, if it is retained, it has a tendency to produce deeds of sale in place of mortgages; on the other hand, without it the Act would lose a valuable part of its remedial operation. It is also a deterrent to lending. It has been seen that sales have not increased in the four Deccan Agriculturists' Relief Act districts at nearly the same rate that has marked their progress in other districts, and in the absence of evidence that sales have taken the place of mortgages to any large extent, I think it would be more prudent to retain the section.

Subject to the above I think that the Act should be extended to Khandesh, Nasik, Thana' and Ratnagiri.

As regards Bijapur I agree with Mr. Ebden, who proposes that section 7 should be made applicable. With reference to Mr. Ebden's remarks on sections 12 and 14, I am not prepared to say that some better means of "going behind the bond" might not be devised; but till this is done I should advocate the sections being extended to Bijapur as they are. As mortgage debt in Bijapur is comparatively very small, I agree with Mr. Ebden in thinking that the provisions respecting suits for redemption and suits for accounts need not be introduced there. I think that section 21 ought to be applied and also section 22, but the latter with prospective effect only and with the omission of the second clause.

I would refer again to Mr. Ebden's description of the remarkable change that has come over the Bijapur district consequent on the opening of the railway. The registration statistics show that loans on mortgage have greatly increased, and as the statement of debts shows that loans on personal security are much more common transactions than mortgages, there are good ground for fearing that the custom of borrowing is rapidly extending and, if not checked, that the rayats, at present lightly encumbered, will, by the imprudent use of their increasing credit, gradually drift into the position of people in other districts who have passed through a similar experience. The sections which I have suggested should be extended to the district, will, I believe, have the effect of checking the reckless use of credit without in any way curtailing the legitimate borrowing power of the people.

The Collectors have not stated their opinions as to whether the Act should be extended to other classes besides agriculturists. As I have said already, the results of the enquiries into the indebtedness of the mass of the population have not reached me in such a form as to enable me to give accurate details. But their indebtedness seems extensive. In the returns I have examined of individual villages I found that in many cases the debts exceeded the value of the assets, excluding cash and ornaments. I do not see why the Act should not be extended to classes in the same or a lower social status than landholders; but I am unable to say whether the pressure of their debts has become excessive. The difficulty would be to define the classes to which the Act should apply. If it were made applicable to all except income tax-payers, some would be included for whom the Act is not required. On the other hand, none would be excluded who are in need of special protection. It would be safer, I think, if the Act is applied to others than agriculturists to experiment on one or two districts first of all before extending it generally.

APPENDIX A.

General Statistics.

Extracted from Report of Director of Agriculture on the Economic Condition of the Masses.

District.	Area, square miles.	Land Revenue.	Population. According to the Census of 1881.	Population. Per square mile.	Incidence of Land Revenue. Per head.	Incidence of Land Revenue. Per occupied acre.	Percentage of Area. Cultivated. Actually cropped.	Percentage of Area. Cultivated. Fallow.	Percentage of Area. Uncultivated. Available for cultivation.	Percentage of Area. Uncultivated. Not available for cultivation.	Percentage of Area. Forest.	Percentage of irrigated area on net cropped area.	Number of acres per head. Of cultivated area.	Number of acres per head. Of food crops (cereals and pulses.)	Average size of a holding.
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
		R			R a. p.	R a. p									
Poona . . .	5,275	12,03,495	900,621	171	1 5 4	0 9 7	63	10	2	14	11	3·8	2·3	2·1	29·2
Satara . . .	4,813	15,41,60	1,062,350	221	1 7 3	0 13 9	60	13	2	10	15	5·3	1·6	1·6	24·5
Ahmednagar . .	6,605	15,75,458	751,228	113	2 1 7	0 9 4	64	9	6	10	13	2·5	3·5	3·2	38·7
Sholapur . .	4,541	10,53,761	582,487	128	1 12 11	0 7 7	72	11	3	9	5	3·3	3·5	3·0	49·0
Khandesh . .	8,898	33,61,708	1,237,231	139	2 11 6	1 1 11	57	5	18	12	8	1·4	2·3	1·3	22·6
Nasik . . .	5,773	14,77,862	781,206	135	1 14 3	0 10 10	54	11	6	9	20	3·8	2·4	2·0	31·3
Thana . . .	3,859	11,94,104	807,367	209	1 7 8	1 2 11	21	19	8	37	15	1·1	0·6	0·6	12·3
Ratnagiri . .	3,927	8,70,656	997,090	254	0 14 0	1 1 0	32	37	1	29	1	...	0·5	0·5	7·9
Bijapur . .	5,666	13,30,790	627,845	111	2 1 11	0 8 8	73	10	8	5	4	0·4	4·0	3·0	34·0

District.	Government rental per holder.	Assessed, unoccupied cultivable area in Rayatwari Villages. Acres.	Assessed, unoccupied cultivable area in Rayatwari Villages. Assessment per acre.	Percentage of food and non-food crops on gross area. Food crops. Cereals. Jowari.	Bajri.	Rice.	Wheat.	Coarse grains.	Others.	Food crops. Pulses.	Food crops. Others.	Non-food crops. Cotton.	Non-food crops. Oil seeds.	Non-food crops. Others.	Total. Food crops.	Total. Non-food crops.	Average rainfall at Head-quarter Station, 1876-1886.
1	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33
	R a. p.		R a. p.														
Poona . . .	16 7 6	51,251	0 6 4	33	35	3	5	5	...	9	1	1	7	1	91	9	31·06
Satara . . .	18 15 7	31,037	0 4 2	28	31	2	4	8	1	17	1	1	5	2	92	8	40·84
Ahmednagar . .	21 11 0	117,379	0 5 7	30	40	...	8	2	...	11	...	2	6	1	91	9	25·11
Sholapur . .	21 13 4	64,377	0 5 9	52	17	1	3	...	1	11	...	1	12	2	85	15	33·33
Khandesh . .	23 14 1	485,054	0 7 7	18	19	1	11	1	...	6	...	33	10	1	56	44	25·79
Nasik . . .	20 7 7	159,010	0 6 2	5	37	2	14	11	...	12	1	1	16	1	82	18	33·74
Thana . . .	14 1 10	53,171	0 6 8	...	...	62	...	23	...	9	1	...	4	1	95	5	99· 1
Ratnagiri . .	8 3 10	479	0 6 8	...	...	...	...	...	...	...	...	...	...	...	...	...	100·73
Bijapur . .	16 1 10	253,762	0 3 11	47	10	...	7	1	...	9	...	16	9	1	74	26	26·78

A. F. WOODBURN,
On Special Duty.

APPENDIX B.

Registration Returns—Act III of 1877.

Extract from Comparative Statement of Registrations in each District from 1874-75 to 1887-88.

District.	Years.	Registrations affecting immoveable property.								Registrations affecting moveable property.		Remarks.
		Deeds of Sale of R100 and upward.		Deeds of sale of less than R100.		Deeds of mortgage of R100 and upward.		Deeds of mortgage of less than R100.		Obligations for the payment of money.		
		Number of deeds.	Aggregate value.	Number of deeds.	Aggregate value.	Number of deeds.	Aggregate value.	Number of deeds.	Aggregate value.	Number of deeds.	Aggregate value.	
1	2	3	4	5	6	7	8	9	10	11	12	13
			R a. p.		R a. p.		R a. p.		R a. p.		R a. p.	
Poona.	1874-75	1,171	6,24,923 10 9	329	18,942 12 3	3,169	12,92,231 12 0	372	28,216 5 4	33	11,562 13 0	
	1875-76	1,159	5,69,660 8 1	270	17,329 6 0	2,441	10,87,603 5 11	293	22,254 6 0	14	7,246 4 0	
	1876-77	1,085	5,88,647 6 9	295	19,383 0 6	2,543	11,31,768 2 5	314	24,461 7 0	17	8,496 0 0	
	1877-78	1,108	6,39,127 9 6	255	15,214 7 0	2,831	11,51,263 0 3	374	25,955 4 0	9	3,245 0 0	
	1878-79	1,421	6,88,376 8 7	329	20,842 7 0	3,381	13,30,952 0 9	495	35,845 9 1	16	8,290 0 0	
	1879-80	1,502	7,69,599 0 5	389	23,968 0 4	3,146	12,94,740 13 0	504	32,101 10 0	83	23,206 14 0	
	1880-81	836	5,20,756 4 1	384	28,903 13 0	1,123	5,84,063 0 0	685	40,957 10 3	139	23,608 13 3	
	1881-82	882	6,76,705 15 10	339	34,432 1 0	786	8,00,504 9 4	198	12,331 10 3	75	11,728 7 0	
	1882-83	920	6,04,322 12 8	365	27,488 2 0	678	3,53,619 0 9	190	11,139 12 0	74	13,086 8 0	
	1883-84	1,019	7,12,354 12 11	393	22,297 8 0	794	3,91,071 1 0	223	12,732 8 6	122	16,804 4 8	
	1884-85	1,007	7,14,293 7 10	468	27,191 15 9	812	4,30,771 11 11	260	15,596 12 0	89	29,679 0 0	
	1885-86	1,129	7,25,292 9 11	396	21,465 14 0	983	5,38,365 7 4	322	18,681 0 0	125	18,835 8 6	
	1886-87	1,358	8,35,717 6 1	387	18,640 8 0	1,393	7,36,545 15 0	302	17,769 4 0	110	24,340 8 0	
	1887-88	2,154	11,40,465 2 11	361	20,646 5 2	3,028	12,87,693 5 4	257	15,225 7 0	88	14,592 0 0	
	1874-75	1,172	3,61,499 10 6	413	23,265 12 10	2,905	10,38,893 5 0	255	20,130 4 7	12	24,849 0 0	
	1875-76	1,122	3,69,914 15 6	488	27,059 8 0	2,840	9,40,074 12 3	257	18,033 5 0	16	4,401 0 0	

Sátára.	1876-77	1,016	2,99,342 4 2	433	23,202 5 4	3,122	10,58,949 7 5	296	21,527 9 0	9	2,665 0 0
	1877-78	1,155	3,77,580 7 1	533	27,502 13 6	3,409	10,86,458 11 4	565	36,572 9 0	7	650 0 0
	1878-79	1,373	4,03,939 14 0	604	33,078 11 6	3,886	12,11,369 6 0	564	35,711 0 0	10	1,927 0 0
	1879-80	1,382	4,35,574 13 3	628	35,053 15 0	3,525	11,21,656 8 4	530	33,454 0 0	39	4,430 15 0
	1880-81	563	2,03,477 12 0	401	22,874 10 0	793	3,17,730 5 0	353	18,256 2 0	190	30,239 4 0
	1881-82	474	2,17,142 0 0	293	19,232 11 3	526	2,12,390 2 0	196	10,922 3 0	120	33,569 8 0
	1882-83	486	1,54,542 14 8	239	35,905 4 0	266	1,25,613 8 0	114	5,636 0 0	84	33,197 7 6
	1883-84	413	2,09,999 11 9	262	12,762 8 0	246	1,29,875 14 0	118	6,000 3 0	64	15,953 1 10
	1884-85	473	1,86,345 3 5	278	12,361 3 6	350	1,39,921 11 6	174	8,193 4 0	127	21,844 7 3
	1885-86	522	2,02,277 14 1	297	15,176 12 4	332	1,40,647 7 0	135	6,181 0 0	52	8,271 0 0
	1886-87	701	2,54,326 15 1	278	13,133 4 0	611	2,12,342 14 10	157	7,750 0 0	62	35,328 9 4
	1887-88	1,795	5,71,655 10 0	298	15,297 10 0	2,571	7,03,163 2 0	146	8,137 8 0	55	14,929 4 0
Ahmednagar.	1874-75	681	2,11,921 10 0	578	29,056 4 0	1,526	5,11,144 9 0	423	31,988 10 0	15	2,025 0 0
	1875-76	646	2,01,14 13 0	519	27,345 11 0	1,189	3,87,129 9 0	354	25,609 7 0	20	3,301 8 0
	1876-77	604	2,26,466 6 0	386	22,258 10 0	1,315	4,34,347 13 0	880	27,816 14 0	9	1,435 0 0
	1877-78	634	2,00,502 8 10	341	19,811 4 0	1,401	4,45,788 2 0	540	37,720 7 0	15	3,419 12 0
	1878-79	724	2,35,627 1 4	352	21,409 14 0	1,401	4,93,603 12 3	502	35,599 10 0	4	1,900 8 0
	1879-80	833	4,08,272 2 0	426	27,192 3 0	1,168	3,88,729 14 0	391	26,068 11 0	25	7,339 8 0
	1880-81	452	1,43,472 9 8	280	15,503 9 2	382	1,35,684 3 6	176	10,802 11 0	128	17,080 0 0
	1881-82	455	1,73,717 4 9	251	18,791 9 6	308	1,26,970 12 0	136	10,944 9 6	50	6,084 3 0
	1882-83	475	1,74,333 7 0	279	14,311 11 0	289	1,47,825 4 0	104	5,434 11 0	31	16,575 12 0
	1883-84	543	2,28,206 3 0	316	16,972 7 0	323	1,10,393 8 0	109	6,329 12 0	55	5,863 4 0
	1884-85	507	1,70,573 5 8	302	17,444 5 0	325	1,25,484 15 0	124	7,794 8 0	62	9,575 0 0
	1885-86	565	2,05,500 12 6	308	17,413 8 0	414	1,62,495 13 9	146	8,590 4 0	79	9,735 4 0
	1886-87	753	2,87,256 4 8	294	16,151 8 0	565	2,19,275 13 0	158	9,353 13 0	85	10,452 0 0
	1887-88	1,263	4,39,918 4 0	387	20,804 1 0	1,098	3,61,236 8 11	184	10,997 3 9	109	14,693 2 0

APPENDIX B.

Registration Rules—Act III of 1877.

Extract from Comparative Statement of Registrations in each District from 1874-75 to 1887-88—continued.

District.	Years.	Registrations affecting immoveable property. — Deeds of sale of R100 and upwards. — Number of deeds.	Deeds of sale of R100 and upwards. — Aggregate value.	Deeds of sale of less than R100. — Number of deeds.	Deeds of sale of less than R100. — Aggregate value.	Deeds of mortgage of R100 and upward. — Number of deeds.	Deeds of mortgage of R100 and upward. — Aggregate value.	Deeds of mortgage of less than R100. — Number of deeds.	Deeds of mortgage of less than R100. — Aggregate value.	Registrations affecting moveable property. — Obligations for the payment of money. — Number of deeds.	Obligations for the payment of money. — Aggregate value.	Remarks.
1	2	3	4	5	6	7	8	9	10	11	12	13
			R a. p.		R a. p.		R a. p.		R a. p.		R a. p.	
Sholapur.	1874-75	758	2,32,909 12 0	194	11,212 8 0	1,044	3,64,815 7 0	143	9,535 8 0	19	8,379 0 0	
	1875-76	847	2,35,636 7 6	196	11,138 8 0	1,077	3,83,647 11 6	157	10,105 5 9	23	11,027 0 0	
	1876-77	722	2,17,207 4 10	188	11,043 8 0	1,198	4,26,697 4 6	166	7,923 12 0	19	8,614 0 0	
	1877-78	937	3,07,691 5 6	408	20,119 4 0	1,389	4,32,496 6 5	463	25,151 4 0	11	6,040 0 0	
	1878-79	1,429	4,05,075 13 9	561	26,584 12 3	1,874	6,32,571 8 4	560	30,773 4 0	18	2,176 0 0	
	1879-80	1,229	4,03,827 2 3	588	28,484 11 6	1,483	4,73,321 5 0	483	24,872 8 0	21	3,101 0 0	
	1880-81	439	1,90,653 7 0	234	16,296 2 0	389	2,03,588 7 6	115	5,854 8 0	85	19,026 4 0	
	1881-82	434	1,84,122 10 3	192	9,313 0 0	343	1,66,247 3 9	87	4,480 0 0	73	22,448 12 0	
	1882-83	459	1,62,932 2 2	201	8,870 4 0	303	1,47,858 8 6	72	3,912 0 0	87	22,616 4 0	
	1883-84	537	1,94,982 14 7	283	14,295 6 7	373	1,34,666 0 0	79	3,953 0 0	94	11,799 0 0	
	1884-85	510	2,09,765 4 5	241	11,972 2 0	421	1,44,640 0 0	108	5,764 0 0	90	15,537 12 3	
	1885-86	536	1,82,376 9 2	208	10,211 8 0	380	1,45,328 6 3	120	6,377 8 0	60	20,646 5 3	
	1886-87	650	2,19,686 4 5	271	13,697 7 0	422	1,51,067 14 3	103	5,398 8 0	48	6,022 0 0	
	1887-88	1,105	3,64,302 10 7	281	13,548 0 0	818	2,67,026 11 2	104	5,414 8 0	73	10,350 8 0	
	1874-75	2,006	5,66,010 8 4	434	28,253 14 0	2,959	10,49,914 15 7	284	21,621 0 0	3	1,100 0 0	
	1875-76	1,970	5,50,795 12 7	381	26,576 8 3	3,141	10,50,044 10 6	732	26,434 9 3	3	345 0 0	

Khandesh.	1876-77	1,698	4,63,022 3 0	400	25,751 10 4	3,069	9,95,288 5 3	342	24,574 13 0	4	2,674 0 0
	1877-78	1,920	5,34,694 12 0	474	29,777 12 0	3,029	9,22,769 13 10	515	34,169 7 0	5	2,419 0 0
	1878-79	2,244	6,38,535 5 0	512	33,197 15 0	3,465	11,29,237 1 11	612	39,752 9 6	...	...
	1879-80	2,509	6,66,902 8 8	542	36,495 6 3	3,784	11,55,145 6 2	610	40,310 13 0	3	400 0 0
	1880-81	2,222	6,51,558 7 4	506	36,925 5 10	3,742	11,10,919 9 11	593	40,214 11 2	3	960 0 0
	1881-82	2,648	7,27,726 2 9	857	70,793 4 11	4,615	13,93,147 9 10	844	55,898 9 5	4	4,000 0 0
	1882-83	3,604	10,38,360 11 1	1,130	66,944 4 6	5,581	18,87,959 12 11	1,152	70,349 3 7	8	1,077 2 0
	1883-84	4,053	12,23,547 12 5	1,354	79,282 15 9	6,388	18,94,027 15 3	1,515	95,023 9 0	17	5,098 0 0
	1884-85	4,240	11,69,523 12 5	1,448	84,223 7 6	7,063	21,70,518 14 3	1,562	94,464 4 9	7	810 0 0
	1885-86	4,211	11,77,927 7 7	1,554	86,220 12 2	6,886	20,44,425 6 1	1,668	1,01,870 11 1	9	2,504 8 0
	1886-87	5,302	16,34,358 12 9	1,647	97,855 11 6	7,151	22,32,199 11 10	1,688	1,03,632 8 4	8	2,685 8 0
	1887-88	5,989	18,56,159 7 7	1,790	1,01,615 7 6	7,739	23,06,367 5 9	1,666	1,61,115 15 0	13	2,042 8 0
Násik.	1874-75	739	2,42,088 10 11	287	16,246 8 0	1,645	6,00,448 13 2	246	18,588 7 0	52	5,949 0 0
	1875-76	936	3,58,237 5 0	368	18,801 10 0	1,559	5,30,084 14 0	267	19,679 4 0	32	19,257 8 0
	1876-77	800	2,50,995 11 3	226	12,257 6 0	1,497	5,49,027 15 0	265	18,628 14 0	33	5,135 8 0
	1877-78	681	2,37,820 8 1	260	13,862 15 6	1,440	4,57,196 8 6	362	24,334 6 0	20	2,127 0 0
	1878-79	880	2,87,086 13 2	295	16,462 11 0	1,684	5,67,384 0 3	445	30,755 7 0	23	2,989 12 0
	1879-80	876	2,99,202 8 3	292	18,286 13 0	1,676	6,15,884 10 9	396	27,670 12 0	28	3,562 0 0
	1880-81	889	3,15,918 6 9	307	22,460 2 10	1,536	5,20,994 9 0	278	19,635 4 0	10	1,573 0 0
	1881-82	942	3,03,304 6 9	327	32,740 10 10	1,430	4,86,743 1 9	293	20,239 10 0	14	1,363 0 0
	1882-83	1,238	4,30,581 5 5	483	29,721 5 0	1,704	5,37,700 5 0	547	34,502 0 6	46	5,380 7 0
	1883-84	1,277	4,32,019 9 4	601	38,892 11 6	1,865	5,82,391 15 11	637	41,995 1 8	42	3,809 12 0
	1884-85	1,513	4,82,138 5 4	605	35,500 8 1	2,201	6,76,601 9 7	648	40,958 8 0	51	5,054 0 0
	1885-86	1,498	5,63,783 12 3	641	36,462 3 4	2,169	7,56,053 13 5	679	43,074 10 1	32	3,473 0 0
	1886-87	1,805	6,25,749 13 11	660	38,702 11 7	2,222	7,64,746 9 2	739	47,053 10 3	24	3,661 0 0
	1887-88	1,963	6,62,725 2 8	739	43,329 5 6	2,546	8,24,906 3 5	754	48,771 8 9	38	7,317 5 4

APPENDIX B.

Registration Returns—Act III of 1877.

Extract from Comparative Statement of Registrations in each District from 1874-75 to 1887-88—continued.

District.	Years.	Registrations affecting immoveable property.								Registrations affecting moveable property.		Remarks.
		Deeds of sale of R100 and upward.		Deeds of sale of less than R100.		Deeds of mortgage of R100 and upward.		Deeds of mortgage of less than R100.		Obligations for the payment of money.		
		Number of deeds.	Aggregate value.	Number of deeds.	Aggregate value.	Number of deeds.	Aggregate value.	Number of deeds.	Aggregate value.	Number of deeds.	Aggregate value.	
1	2	3	4	5	6	7	8	9	10	11	12	13
			R a. p.		R a. p.		R a. p.		R a. p.		R a. p.	
Thana.	1874-75 . . .	10,050	4,28,588 10 6	613	40,132 11 3	1,187	5,05,092 11 9	281	21,620 5 9	15	11,152 0 0	
	1875-76	987	3,90,232 6 1	660	40,078 2 5	1,026	4,47,458 11 6	307	23,248 8 0	15	3,523 12 3	
	1876-77	1,054	4,35,070 11 1	579	35,066 2 0	1,103	4,59,590 5 11	323	26,120 8 9	13	3,661 1 3	
	1877-78	1,141	5,00,037 3 4	589	35,568 8 3	1,046	4,24,234 3 4	303	22,315 8 6	4	1,354 12 0	
	1878-79	1,404	7,64,409 7 4	650	44,179 3 11	1,279	4,58,398 9 3	371	27,797 10 6	6	1,030 4 0	
	1879-80	1,503	5,73,196 1 2	630	42,372 5 6	1,428	6,27,211 7 7	331	24,754 3 3	4	2,486 15 6	
	1880-81	1,523	5,66,708 3 2	598	39,930 10 8	1,427	5,75,727 2 9	360	28,060 3 0	10	2,791 0 0	
	1881-82	1,345	6,26,362 7 4	684	59,784 14 10	1,412	5,72,768 0 1	381	29,856 6 6	18	4,890 0 0	
	1882-83	1,483	6,32,610 9 2	887	57,527 15 3	1,360	5,36,953 6 5	537	35,756 5 6	11	5,531 0 0	
	1883-84	1,352	5,63,594 5 7	822	53,445 2 2	1,161	4,93,656 5 8	435	31,686 0 5	14	3,016 6 0	
	1884-85	1,490	5,63,699 2 7	890	60,239 3 6	1,231	5,02,493 10 4	456	33,780 8 3	25	5,825 0 0	
	1885-86	1,467	6,07,080 9 0	960	58,310 5 7	1,307	5,60,985 12 10	521	38,172 5 0	29	8,369 15 0	
	1886-87	1,509	6,21,585 9 0	1,011	66,104 10 5	1,373	6,84,767 1 7	519	38,495 11 3	18	4,200 12 0	
	1887-88	1,784	8,40,695 2 6	1,106	72,613 8 0	1,388	6,18,540 9 6	513	40,864 10 0	25	8,204 9 6	
	1874-75	401	1,77,612 15 3	159	9,848 5 5	1,064	4,64,924 5 5	179	12,649 7 5	2	1,250 0 0	
	1875-76	470	2,57,297 0 4	233	12,391 5 6	1,406	6,11,041 3 8	189	14,309 3 8	6	3,466 10 8	

Ratnagiri.	1876-77	490	1,99,633 8 9	3[illegible]3	15,961 3 9	1,434	6,11,632 4 11	165	11,931 0 6	6	757 10 8
	1877-78	550	2,42,468 5 4	405	19,[illegible]32 3 6	1,747	7,40,039 11 4	248	18,115 13 5	5	451 10 8
	1878-79	679	3,08,527 15 5	391	18,965 5 4	2,047	8,12,802 0 5	280	18,524 13 10	15	3,646 10 4
	1879-80	655	2,56,283 3 9	491	22,801 9 0	2,160	10,03,292 13 4	332	22,677 2 10	8	1,649 10 8
	1880-81	654	3,40,756 12 5	497	29,495 11 2	2,064	8,49,998 1 8	414	29,029 8 5	8	3,177 6 4
	1881-82	634	2,61,088 8 11	534	49,371 3 1	1,675	6,78,832 3 3	354	23,155 9 0	6	303 4 5
	1882-83	710	3,43,674 14 2	528	22,584 10 9	1,643	6,68,121 15 0	445	27,670 9 4	5	1,513 3 6
	1883-84	775	3,41,996 9 1	504	22,795 7 10	1,849	7,68,355 2 4	496	30,703 10 0	6	943 9 10
	1884-85	861	3,74,196 1 0	665	27,156 0 4	2,160	8,78,334 3 4	619	37,617 0 4	7	702 9 9
	1885-86	818	3,46,270 13 10	470	22,321 1 1	1,997	8,25,943 3 2	502	31,257 15 6	6	1,094 15 6
	1886-87	825	3,78,580 1 3	498	19,893 10 4	1,984	8,62,714 10 7	372	24,700 5 0	10	6,400 0 0
	1887-88	944	4,32,920 3 7	546	25,446 15 7	2,098	8,67,649 10 0	408	25,892 0 0	7	2,[illegible]63 0 0
Bijapur.	1874-75	507	1,23,415 10 9	234	14,414 0 0	506	2,58,154 6 0	79	4,924 4 0	11	10,520 0 0
	1875-76	531	1,26,859 8 0	218	12,931 0 0	507	1,87,116 15 0	64	4,012 3 0	17	16,668 0 0
	1876-77	531	1,30,435 8 0	212	11,056 8 0	678	2,52,411 10 6	179	10,385 4 0	5	3,219 0 0
	1877-78	569	1,32,458 2 9	513	26,682 4 0	715	2,03,035 0 0	254	15,423 0 0	1	1,000 0 0
	1878-79	557	1,35,392 2 0	300	18,032 3 0	630	1,95,837 9 5	107	7,093 0 0	6	2,054 0 0
	1879-80	423	1,09,874 9 6	213	13,107 15 0	417	1,68,516 14 6	110	7,297 8 0	2	1,500 0 0
	1880-81	323	82,254 10 8	171	10,582 0 0	395	1,31,907 15 0	34	2,255 0 0	3	1,484 0 0
	1881-82	362	90,908 12 0	153	9,273 8 0	342	1,33,830 0 0	43	2,977 0 0	3	1,350 0 0
	1882-83	524	1,19,892 8 0	402	20,935 0 0	463	1,43,004 8 0	117	7,121 0 0	8	37,540 0 0
	1883-84	752	1,70,826 11 0	577	29,878 2 8	611	2,19,303 15 2	145	9,186 0 0	7	2,030 0 0
	1884-85	836	1,90,389 15 0	660	32,799 8 0	766	2,10,558 8 0	172	10,577 0 0	24	3,735 0 0
	1885-86	733	1,67,603 0 0	584	28,689 0 0	842	2,40,690 0 0	288	16,751 5 3	7	1,537 4 0
	1886-87	835	1,99,689 4 0	646	31,853 8 0	923	2,89,171 13 9	243	14,760 8 0	4	320 0 0
	1887-88	974	2,53,079 8 0	812	38,508 8 0	998	3,05,010 8 0	197	11,888 0 0	7	8,615 0 0

A. F. WOODBURN,

On special duty.

APPENDIX C.

REGISTRATION RETURNS.

DECCAN AGRICULTURISTS' RELIEF ACT.

Comparative Statement showing the total number of Instruments registered under Section 56 of Act XVII of 1879 classified under different heads and their aggregate value.

District.	Years.	IMMOVEABEES.									MOVEABLES.						TOTAL OF IMMOVEABLES AND MOVEABLES.	
		Sales.	Mortgages. With possession.	Mortgages. Without possession.	Deeds of gift.	Leases. For periods not exceeding one year.	Leases. For periods exceeding one year.	All other deeds.	Total.	Aggregate value.	Deeds of sale.	Mortgages.	Bonds.	All other deeds.	Total.	Aggregate value.	Number of documents.	Aggregate value.
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
										R a. p.						R a. p.		R a. p.
Poona.	1880-81 . .	2,147	11,231	4,194	5	8,646	4,826	792	31,841	22,14,029 1 1	620	673	21,236	1,909	24,438	10,72,634 14 5	56,279	32,86,613 15 6
	1881-82 . .	1,799	6,983	1,191	25	10,562	2,231	441	23,232	16,59,043 0 7	484	705	15,155	1,392	17,736	9,21,852 9 10	40,968	25,80,895 10 5
	1882-83 . .	2,141	6,204	1,178	54	11,095	3,178	790	24,640	18,60,679 12 4	522	651	12,818	1,616	15,607	8,21,408 14 4	40.247	26,82,088 10 8
	1883-84 . .	2,179	4,719	679	52	5,985	5,616	560	19,790	14,59,970 9 11	430	671	6,910	1,035	9,046	5,05,644 6 9	28,836	19,65,615 0 8
	1884-85 . .	2,741	5,687	832	59	5,631	5,620	722	21,292	17,39,934 12 10	449	704	8,444	1,208	10,805	6,06,428 11 3	32,097	23,46,363 8 1
	1885-86 . .	3,098	7,381	1,076	95	6,169	7,531	726	26,076	22,39,110 2 2	585	934	10,672	1,110	13,301	7,87,163 0 2	39,377	30,26,273 2 4
	1886-87 . .	2,440	6,871	1,074	67	6,266	6,032	611	23,361	17,32,213 12 7	480	903	9,065	1,112	11,560	6,72,259 13 8	34,921	24,04,473 10 3
	1887-88 . .	2,175	6,256	1,267	...	10,146	...	414	20,258	9,09,150 1 3	485	1,071	9,130	1,216	11,902	6,60,757 15 3	32,160	15,69,908 0 6
	1880-81 . .	3,237	14,072	8,044	30	2,704	5,337	793	34,217	45,47,284 11 7	197	393	17,097	1,135	18,822	8,94,533 14 8	53,039	54,41,818 10 3
	1881-82 . .	2,801	7,910	5'652	40	2,520	4,537	701	24,161	18,19,683 3 0	103	319	12,982	1,216	14,620	8,13,037 6 4	38,781	26,32,720 9 4

Satara.	1882-83	3,347	6,920	4,888	86	2,707	5,099	875	23,922	19,06,807 7 11	144	185	10,961	1,171	12,461	7,96,502 0 0	36,383	27,03,309 7 11
	1883-84	2,881	4,085	1,897	136	1,393	4,355	584	15,331	12,76,469 1 6	92	227	4,039	487	4,845	2,65,562 4 0	20,176	15,42,031 5 6
	1884-85	3,538	4,823	2,666	174	1,333	5,544	687	18,765	17,37,971 14 8	104	243	4,161	535	5,043	2,90,944 8 5	23,808	20,28,916 7 1
	1885-86	4,002	5,903	3,582	203	1,476	6,807	810	22,783	22,83,403 5 7	109	220	4,274	453	5,056	3,04,137 0 3	27,839	25,87,540 5 10
	1886-87	3,695	5,961	4,236	136	1,573	5,648	573	21,822	20,49,000 14 7	96	238	4,078	422	4,834	2,90,767 9 10	26,656	23,39,768 8 5
	1887-88	2,955	5,273	4,514	...	3,593	...	346	16,681	9,40,650 12 7	130	281	3,929	475	4,815	2,79,721 9 10	21,496	12,20,372 6 5
Ahmednagar.	1880-81	1,321	3,923	521	9	4,240	1,837	434	12,285	8,92,671 8 0	675	478	16,604	1,378	19,135	10,68,584 8 2	31,420	19,61,256 0 2
	1881-82	1,028	1,994	350	9	2,642	1,778	347	8,148	6,99,301 12 3	642	379	10,011	1,609	12,621	6,71,658 0 5	20,769	13,70,959 12 8
	1882-83	1,165	1,926	293	25	2,483	2,072	330	8,294	6,34,006 0 1	576	377	9,725	1,352	12,030	6,66,902 13 9	20,324	13,00,908 14 6
	1883-84	1,131	1,554	231	28	1,869	1,845	243	6,901	5,82,390 11 5	414	338	4,809	981	6,542	4,02,556 0 7	13,443	9,84,946 12 0
	1884-85	1,564	2,244	367	53	2,194	2,438	349	9,209	7,84,715 13 5	565	402	7,764	1,019	9,750	6,02,937 11 11	18,959	13,87,653 9 4
	1885-86	1,798	2,939	561	50	2,898	2,934	462	11,642	9,52,830 2 9	663	549	10,322	1,108	12,642	7,36,344 11 8	24,284	16,89,174 14 5
	1886-87	1,777	2,691	428	32	2,862	2,468	514	10,772	8,18,459 7 0	606	489	7,141	1,094	9,330	5,49,045 15 3	20,102	13,67,505 6 3
	1887-88	1,893	2,510	654	2	4,679	...	399	10,137	5,03,438 7 2	724	703	8,637	1,377	11,441	6,37,073 11 4	21,578	11,40,512 2 6
Sholapur.	1880-81	1,326	2,144	387	7	2,120	2,145	407	8,536	5,16,225 9 2	146	69	5,239	563	6,017	3,12,780 4 11	14,553	8,29,005 14 1
	1881-82	1,135	1,033	416	14	2,876	802	349	6,625	4,73,213 11 0	145	131	4,435	811	5,522	2,96,116 8 1	12,147	7,69,330 3 1
	1882-83	1,431	870	357	22	3,383	993	340	7,396	4,66,574 9 7	136	130	4,009	903	5,178	2,74,130 2 4	12,574	7,40,704 11 11
	1883-84	1,064	533	150	18	1,974	1,261	276	5,276	3,86,638 10 8	123	66	1,596	390	2,175	1,34,070 5 11	7,451	5,20,709 0 7
	1884-85	1,284	649	257	27	1,731	1,360	292	5,600	4,88,298 6 3	116	72	2,311	375	2,874	1,82,422 3 8	8,474	6,70,720 9 11
	1885-86	1,436	647	412	40	1,958	1,569	369	6,431	5,57,093 9 0	120	71	2,630	330	3,151	1,87,422 14 9	9,582	7,44,516 7 9
	1886-87	1,421	617	398	20	1,668	1,381	316	5,821	4,20,774 2 4	97	89	1,868	339	2,393	1,47,100 9 8	8,214	5,67,874 12 0
	1887-88	1,461	495	463	1	2,363	2	140	4,925	2,42,482 4 8	132	97	2,538	338	3,105	1,82,710 6 11	8,030	4,25,192 11 7

A. F. WOODBURN,
On special duty.

APPENDIX D.

Form No. 1.

Statement showing the number and description of Suits instituted in the Courts of the Subordinate Judges of the nine Districts from 1880 to 1887.

District.	Year.	Suits for money or moveable property.							Title and other suits.									Grand Total.
		On Bonds.				On accounts only without Bonds.		Others.	Relating to Immoveable Property.								Others.	
		Secured.		Unsecured.					For Redemption.		For Foreclosure.		For Pre-emption.		Others.			
		Number.	Value.	Number.	Value.	Number.	Value.	Number.	Number.	Value.	Number.	Value.	Number.	Value.	Number.	Value.	Number.	Number.
			R		R		R			R		R		R		R		
Poona	1880	115	14,382	1,839	1,28,453	257	47,816	926	121	33,305	14	2,141	...	...	560	1,17,796	377	4,209
	1881	285	20,394	2,152	1,67,449	351	74,647	449	180	38,667	13	2,324	...	...	711	1,20,274	304	4,445
	1882	176	17,986	2,037	1,55,145	332	83,956	329	291	75,223	12	1,503	1	75	719	1,35,277	295	4,132
	1883	160	14,485	1,918	2,05,792	301	79,599	414	384	3,50,905	11	3,574	...	...	716	1,22,466	241	4,145
	1884	152	15,544	2,198	1,77,051	296	73,084	486	367	1,24,854	36	6,376	3	32	699	1,50,776	235	4,472
	1885	179	18,760	3,074	2,42,071	296	66,452	704	369	98,338	69	1,27,596	1	58	761	1,56,215	285	5,738
	1886	62	8,752	2,201	2,42,215	242	1,16,570	475	192	1,55,264	93	19,561	...	...	782	88,807	315	4,362
	1887	164	39,006	1,710	1,43,957	264	1,20,062	558	266	1,08,879	45	13,103	...	...	768	1,38,584	251	4,026
Satara	1880	398	94,123	1,877	1,67,274	80	4,868	196	270	47,528	18	2,343	...	...	386	61,375	17	3,242
	1881	466	91,459	2,022	1,64,516	137	8,129	280	1,037	2,48,630	29	6,426	...	...	871	2,77,077	102	4,944
	1882	696	1,61,273	1,684	1,22,406	89	9,921	310	1,385	3,24,353	68	10,259	...	...	755	1,10,303	50	5,037
	1883	650	97,009	1,748	1,44,028	56	6,912	409	2,198	4,88,693	32	3,537	...	...	694	1,16,395	43	5,830
	1884	987	1,51,012	2,078	1,87,969	69	7,050	377	1,263	2,61,107	49	11,161	...	...	777	1,38,950	86	5,686
	1885	1,007	1,50,416	2,296	1,60,578	138	11,307	362	1,275	2,55,504	60	12,136	...	...	927	1,55,921	76	6,141
	1886	856	1,58,172	1,667	1,72,899	160	24,351	353	337	58,224	62	8,103	...	...	992	1,60,168	75	4,502
	1887	770	1,08,405	1,156	94,864	207	17,902	405	305	54,867	77	8,770	...	...	1,023	1,37,327	83	4,026

Ahmednagar	1880	193	22,824	2,004	1,52,532	514	83,473	321	55	13,134	49	3,276	4	1,590	381	84,120	13	3,834
	1881	98	21,641	2,578	1,51,488	567	75,529	318	388	55,545	94	8,234	11	1,686	515	1,53,329	34	4,603
	1882	101	22,833	2,712	1,64,743	448	49,094	298	434	85,272	86	12,664	13	1,615	544	75,058	17	4,653
	1883	106	27,450	2,683	1,89,066	569	53,642	346	375	84,216	83	6,848	14	3,523	617	1,78,693	21	4,815
	1884	164	31,932	2,977	2,02,788	710	72,833	421	274	50,246	122	14,738	9	1,305	742	1,74,149	21	5,440
	1885	158	37,360	3,445	2,74,566	620	99,689	399	238	45,919	159	24,005	16	2,951	780	1,01,989	31	5,846
	1886	195	35,361	3,088	2,25,395	815	90,865	679	175	36,923	173	17,967	12	3,917	903	1,45,320	33	6,073
	1887	149	29,044	2,364	1,77,243	810	91,197	812	185	37,196	151	15,617	10	2,200	960	1,34,613	20	5,461
Sholapur	18	49	6,536	1,601	1,19,443	285	35,463	212	43	5,492	47	9,129	6	989	321	51,394	145	2,709
	1881	26	5,690	1,700	1,28,675	308	58,107	265	149	61,671	26	5,844	8	462	339	56,804	163	2,984
	1882	34	10,460	1,258	88,049	202	22,445	199	203	54,223	32	7,435	6	279	392	64,377	135	2,461
	1883	34	6,898	1,076	91,922	207	32,709	190	431	1,37,053	24	3,191	4	168	357	1,10,703	156	2,479
	1884	30	5,759	1,181	1,03,543	454	71,601	207	435	1,21,446	23	3,155	17	1,402	357	60,023	185	2,912
	1885	92	20,403	1,462	1,23,333	602	67,990	214	317	86,517	72	9,195	10	591	495	92,636	224	3,488
	1896	53	12,373	1,391	1,30,318	733	73,217	262	199	46,878	69	1,724	15	1,577	561	73,846	213	3,496
	1887	50	14,232	1,062	99,704	836	95,917	302	176	51,429	59	17,197	14	998	550	89,128	224	3,273
Khandesh	1880	873	84,495	13,810	7,38,750	1,700	79,001	769	6	1,748	669	1,04,522	...	...	762	1,24,438	18	18,607
	1881	1,169	1,03,241	15,876	8,39,437	1,461	1,31,280	384	4	1,483	756	1,36,475	...	...	832	1,50,394	25	20,507
	1882	1,084	96,034	15,277	11,75,601	1,769	1,09,008	395	13	1,461	632	1,18,033	5	150	1,015	6,50,898	93	20,283
	1883	1,018	86,073	13,914	9,12,323	1,563	99,220	372	13	3,006	542	1,29,049	1	20	845	1,61,568	206	18,474
	1884	1,098	90,564	15,420	8,15,166	2,068	1,77,477	515	6	1,043	584	1,20,211	5	201	825	1,42,111	141	20,662
	1885	937	84,704	14,657	7,80,686	2,883	1,83,018	1,132	1	200	528	1,01,800	6	798	859	4,66,917	158	21,161
	1886	1,269	1,17,043	19,413	11,50,694	3,280	1,65,952	1,237	2	72	806	2,00,904	5	2,409	1,084	2,53,497	123	27,219
	1887	1,370	1,05,753	17,647	11,41,391	2,795	1,29,560	1	1	55	666	1,60,061	4	917	969	2,09,737	83	25,164

APPEDINX D.

Form No. 1—(*continued.*)

District.	Year.	Suits for money or moveable property.							Title and other suits.										Grand Total.
		On Bonds.				On account only without bonds.		Other.	Relating to Immoveable Property.								Others.		
		Secured.		Unsecured.					For Redemption.		For Foreclosure.		For Pretemption.		Others.				
		Number.	Value.	Number.	Value.	Number.	Value.	Number.	Number.	Value.	Number.	Value.	Number.	Value.	Number.	Value.		Number.	Number.
			R		R		R			R		R		R		R			
Nasik	1880	455	34,165	5,636	3,87,423	1,756	1,79,020	495	29	9,170	...	...	...	...	634	1,81,202		82	9,087
	1881	514	44,972	6,157	2,99,996	1,626	1,24,582	447	15	15,613	3	144	...	...	647	1,66,024		94	9,503
	1882	447	30,711	5,861	3,49,086	1,665	1,01,266	670	11	3,619	2	200	...	...	823	2,01,860		126	9,605
	1883	394	34,369	5,360	3,94,630	1,809	1,07,152	534	25	34,579	9	1,965	2	555	854	4,91,694		144	9,131
	1884	417	40,899	5,927	3,52,551	2,135	1,68,219	580	22	3,412	5	2,144	...	...	771	1,30,026		119	9.976
	1885	397	38,798	5,380	2,95,424	2,341	1,67,010	612	32	5,650	5	400	...	...	846	1,82,350		161	9,774
	1886	541	67,494	6,243	3,85,309	2,879	1,40,582	710	22	6,666	15	3,844	...	...	865	1,34,244		145	11,420
	1887	431	36,154	5,894	3,45,295	3,057	1,69,476	685	30	13,922	7	2,052	1	164	881	1,98,280		172	11,158
Thana	1880	380	36,975	1,925	78,263	830	72,573	377	111	15,602	65	3,764	...	...	816	1,01,647		9	4,513
	1881	326	30,435	2,336	1,12,869	914	71,330	454	104	14,127	57	4,725	...	...	1,003	1,26,188		27	5,221
	1882	307	38,213	1,988	1,03,335	956	82,403	400	95	24,214	95	4,963	...	...	1,045	1,24,901		21	4,907
	1883	322	27,671	2,123	83,136	983	75,724	365	98	26,009	82	7,515	2	75	880	1,10,502		23	4,879
	1884	359	31,880	2,328	1,36,540	1,274	1,11,215	372	91	29,034	66	4,778	1	26	777	1,05,158		88	5,306
	1885	368	24,957	2,170	1,35,801	1,459	1,23,930	417	88	20,581	108	5,599	...	...	700	1,01,104		21	5,331
	1886	378	16,839	2,683	1,58,673	1,559	1,32,099	423	85	16,140	92	7,881	1	300	865	1,00,121		13	6,099
	1887	486	42,445	2,877	1,63,878	1,675	1,35,873	457	82	18.795	113	5,946	1	3	827	95,544		14	6,232

Ratnagiri	1880	967	64,611	2,964	1,29,642	130	7,228	607	92	29,347	96	9,004	...	...	1,822	1,15,821	74	6,752
	1881	1,038	62,678	2,880	1,57,246	110	14,186	537	74	16,326	72	10,209	...	...	1,601	95,728	91	6,403
	1882	894	61,196	2,420	1,41,232	117	9,225	542	57	14,589	97	8,608	...	...	1,714	1,18,409	97	5,938
	1883	960	64,390	2,341	1,47,262	86	6,721	454	110	20,587	107	13,187	1	24	2,030	1,28,463	113	6,202
	1884	855	56,877	2,450	1,41,394	117	15,339	462	81	21,643	85	11,560	1	2,500	1,828	1,12,041	60	5,939
	1885	829	77,202	2,231	1,41,891	143	23,478	465	104	39,567	94	10,370	1	700	1,969	1,40,027	78	5,914
	1886	881	61,024	2,194	1,26,475	167	9,483	424	98	17,780	82	13,699	...	...	2,023	1,16,691	67	5,936
	1887	1,005	79,478	2,355	1,19,426	135	7,052	483	94	16,954	92	15,313	...	...	1,940	1,25,623	87	6,191
Bijapur	1880	264	13,848	1,793	1,20,855	51	2,091	167	1	60	21	4,353	14	1,503	150	8,598	11	2,472
	1881	212	28,047	1,543	1,23,627	57	7,616	111	1	10	134	14,664	8	503	87	13,946	18	2,171
	1882	194	26,701	1,577	1,48,381	80	7,341	125	7	724	110	14,118	35	5,178	145	19,233	30	2,303
	1883	250	26,719	1,138	1,22,672	83	14,522	112	1	400	80	10,090	26	4,725	131	24,794	35	1,854
	1884	368	47,284	1,097	55,954	137	14,369	74	6	597	71	22,363	29	6,915	111	19,998	31	1,924
	1885	350	50,772	939	97,420	108	10,008	113	1	150	63	15,130	18	5,434	136	36,467	63	1,791
	1886	541	51,652	1,355	1,30,431	229	17,977	105	7	531	13	1,764	62	14,295	189	40,462	86	2,587
	1887	452	48,413	1,308	1,46,349	276	33,883	94	17	3,871	16	3,731	45	6,233	167	25,593	111	2,486
Poona	1880 to 1883	736	67,247	7,946	6,56,839	1,241	2,86,018	2,118	976	4,98,100	50	9,542	1	75	2,706	4,95,813	1,217	16,991
	1884 to 1887	557	82,062	9,183	8,03,294	1,098	3,76,168	2,223	1,194	4,87,335	243	1,66,636	4	90	3,010	5,34,382	1,086	18,598
Satar	1880 to 1883	2,210	4,43,864	7,331	5,98,224	362	29,830	1,195	4,890	11,09,204	147	22,565	...	...	2,706	5,65,150	212	19,053
	1884 to 1887	3,620	5,68,005	7,197	6,16,310	574	60,610	1,497	3,180	6,29,702	248	40,170	...	...	3,719	5,92,366	320	20,355
Ahmednagar	1880 to 1883	498	94,748	10,277	6,57,829	2,098	2,61,738	1,283	1,252	2,38,167	312	31,022	42	8,414	2,057	5,91,200	85	17,905
	1884 to 1887	666	1,33,697	11,874	8,79,992	2,955	3,54,584	2,311	872	1,70,284	605	72,827	47	10,373	3,385	5,56,071	105	22,820
Sholapur	1880 to 1883	143	29,584	5,635	4,28,089	1,002	1,48,724	866	826	2,58,439	129	25,599	24	1,898	1,409	2,83,278	599	10,633
	1884 to 1887	225	52,767	5,096	4,56,898	2,625	3,08,725	985	1,150	3,06,270	223	31,271	56	4,568	1,963	3,15,633	846	13,169
Khandesh	1880 to 1883	4,144	3,69,843	58,877	36,66,111	6,493	4,18,509	1,920	36	7,698	2,599	4,88,079	6	170	3,454	10,87,298	342	77,871
	1884 to 1887	4,674	3,98,064	67,137	38,87,937	11,206	6,56,007	4,333	10	1,370	2,584	5,82,976	20	4,325	3,737	10,72,262	505	94,206

APPENDIX D.

FORM No. 1—*concluded.*

District.	Year.	Suits for money or moveable property. — On Bonds. — Secured. — Number.	Secured. — Value.	Unsecured. — Number.	Unsecured. — Value.	On accounts only without bonds. — Number.	On accounts only without bonds. — Value.	Others. — Number.	Title and other suits. — Relating to Immoveable Property. — For Redemption. — Number.	For Redemption. — Value.	For Foreclosure. — Number.	For Foreclosure. — Value.	For Pre-emption. — Number.	For Pre-emption. — Value.	Others. — Number.	Others. — Value.	Others. — Number.	Grand Total. — Number.
			R		R		R			R		R		R		R		
Nasik	1880 to 1883	1,810	1,44,217	23,014	14,31,135	6,856	5,12,020	2,146	80	62,981	14	2,309	2	555	2,958	10,40,780	446	37,326
	1884 to 1887	1,786	1,83,345	23,444	13,78,579	10,412	6,45,284	2,587	106	29,650	32	8,440	1	164	3,363	6,44,900	597	42,328
Thana	1880 to 1883	1,335	1,33,294	8,372	3,77,603	3,683	3,02,030	1,597	408	79,952	299	20,967	2	75	3,744	4,63,328	80	19,520
	1884 to 1887	1,591	1,16,121	10,058	5,94,892	5,967	4,93,117	1,669	346	84,550	379	24,204	3	329	3,169	4,01,927	86	23,268
Ratnagiri	1880 to 1883	3,859	2,52,875	10,605	5,75,382	443	37,360	2,140	333	80,849	372	41,008	1	24	7,167	4,58,421	375	25,295
	1884 to 1887	3,570	2,74,581	9,230	5,29,186	562	55,352	1,834	377	95,944	353	50,942	2	30	7,760	4,94,382	202	23,980
Bijapur	1880 to 1883	920	95,315	6,051	5,15,535	271	31,570	515	10	1,194	345	43,225	83	11,909	513	66,571	94	8,800
	1884 to 1887	1,711	1,98,121	4,699	4,30,154	750	76,237	386	31	5,149	163	42,988	154	32,877	603	1,22,520	291	8,788
Four Districts	1880 to 1883	3,587	6,35,443	31,189	23,40,981	4,703	7,26,310	5,462	7,944	21,03,910	638	88,728	67	10,387	8,878	19,35,441	2,113	64,582
	1884 to 1887	5,068	8,36,531	33,350	27,56,494	7,252	11,00,087	7,016	6,396	15,93,591	1,319	3,10,404	107	15,031	12,077	19,98,452	2,357	74,942
Five Districts	1880 to 1883	12,068	9,95,544	1,06,919	65,65,766	17,746	13,01,489	8,318	867	2,32,674	3,629	5,95,588	94	12,733	17,836	31,16,398	1,337	1,68,812
	1884 to 1887	13,332	11,70,232	1,14,568	68,20,748	28,897	19,25,997	10,809	870	2,16,663	3,511	7,09,550	180	40,895	18,632	27,35,981	1,771	1,92,570
The following are the numbers and values of each description per lakh of population.																		
Poona	1880 to 1883	81	7,466	882	72,931	137	31,757	235	108	55,306	5	1,059	0·1	8	300	55,052	135	1,886
	1884 to 1887	61	9,111	1,019	89,193	121	41,767	246	132	54,110	26	18,502	0·4	9	334	59,334	120	2,065

Satara	1880 to 1883	208	41,781	690	56,311	34	2,807	112	460	1,04,410	13	2,124	...	...	254	53,198	19	1,793
	1884 to 1887	340	53,466	677	58,018	54	5,705	140	299	59,274	23	3,781	...	...	350	55,759	30	1,916
Ahmednagar	1880 to 1883	66	12,612	1,368	87,567	279	34,841	170	160	31,703	41	4,129	5	1,120	273	78,697	11	2,383
	1884 to 1887	88	17,797	1,580	1,17,140	393	47,200	307	116	22,667	80	9,627	6	1,380	450	74,021	13	3,037
Sholapur	1880 to 1883	24	5,078	967	73,493	172	25,532	148	141	44,368	22	4,394	4	325	241	48,632	102	1,825
	1884 to 1887	38	9,058	874	78,439	450	53,001	169	197	52,579	38	5,368	9	784	338	54,187	145	2,260
Khandesh	1880 to 1883	334	29,892	4,758	2,96,515	524	33,826	155	2	622	210	39,449	0·4	13	279	87,881	27	6,293
	1884 to 1887	377	32,173	5,426	3,14,245	905	53,022	350	0·8	110	208	47,119	1	349	302	86,666	40	7,614
Nasik	1880 to 1883	231	18,460	2,945	1,83,195	877	65,542	274	10	8,062	1	295	0·2	71	378	1,33,227	57	4,777
	1884 to 1887	228	23,469	3,001	1,76,468	1,332	82,601	331	13	3,795	4	1,080	0·1	20	430	82,551	76	5,418
Thana	1880 to 1883	165	16,509	1,036	46,769	456	37,409	197	50	9,902	37	2,596	0·2	9	463	57,387	9	2,417
	1884 to 1887	197	14,382	1,245	73,682	739	61,077	206	42	10,472	46	2,997	0·3	40	392	49,782	10	2,881
Ratnagiri	1880 to 1883	387	25,361	1,063	57,706	44	3,746	214	33	8,108	37	4,112	0·1	2	718	45,975	37	2,536
	1884 to 1887	358	27,538	925	53,073	56	5,551	183	37	9,622	35	5,109	0·2	320	778	49,582	29	2,404
Bijapur	1880 to 1883	146	15,181	963	82,111	43	5,028	82	1	190	54	6,884	13	1,896	81	10,603	14	1,401
	1884 to 1887	272	31,555	748	68,512	119	12,142	61	4	820	25	6,846	24	5,236	96	19,514	46	1,399
Four Districts	1880 to 1883	108	19,275	946	71,010	142	22,031	165	240	63,818	19	2,691	2	315	269	58,708	64	1,958
	1884 to 1887	153	25,374	1,011	83,614	219	33,369	212	194	43,339	40	9,415	3	455	366	60,620	71	2,273
Five Districts	1880 to 1883	271	22,368	2,402	1,47,520	398	29,242	186	19	5,227	81	13,381	2	286	400	70,019	30	3,792
	1884 to 1887	299	26,292	2,574	1,53,248	649	43,273	242	19	4,867	78	15,942	4	918	418	61,472	39	4,326

A. F. WOODBURN,

On Special duty.

No. 18.

APPENDIX D.

FORM No. 2.

Statement showing the number of Suits instituted by and against Agriculturists in the Courts of the Subordinate Judges of nine Districts from 1880 to 1887.

District.	Year.	Total number of Suits instituted.				
		By Agriculturists.	Against Agriculturists.	Total of columns 3 and 4.	Others.	Total of columns 5 and 6.
1	2	3	4	5	6	7
Poona	1880	415	1,706	2,121	2,084	4,205
	1881	549	1,886	2,435	2,017	4,452
	1882	788	2,020	2,808	1,449	4,257
	1883	817	1,887	2,704	1,569	4,273
	1884	817	2,194	3,011	1,634	4,645
	1885	706	3,371	4,077	1,712	5,789
	1886	473	2,247	2,720	1,654	4,374
	1887	614	1,673	2,287	1,849	4,136
Satara	1880	458	1,037	1,495	1,748	3,243
	1881	1,578	1,357	2,935	1,676	4,611
	1882	1,731	2,178	3,909	1,128	5,037
	1883	2,447	2,385	4,832	998	5,830
	1884	1,654	3,337	4,991	1,029	6,020
	1885	1,698	3,237	4,935	1,206	6,141
	1886	921	2,415	3,336	1,166	4,502
	1887	927	1,946	2,873	1,153	4,026
Ahmednagar	1880	307	1,099	1,406	2,592	3,998
	1881	732	1,239	1,971	2,891	4,862
	1882	855	2,098	2,953	2,135	5,088
	1883	829	2,115	2,944	2,281	5,225
	1884	777	2,699	3,476	2,417	5,893
	1885	607	3,347	3,954	2,299	6,253
	1886	610	3,054	3,664	2,859	6,523
	1887	481	2,371	2,852	2,900	5,752
Sholapur	1880	251	500	751	1,857	2,608
	1881	357	601	958	1,949	2,907
	1882	486	740	1,226	1,167	2,393
	1883	670	737	1,407	1,008	2,415
	1884	714	705	1,419	1,433	2,852
	1885	645	938	1,583	1,782	3,365
	1886	524	776	1,300	2,084	3,384
	1887	445	510	955	2,210	3,165
Khandesh	1880	1,025	5,682	6,707	10,938	17,645
	1881	1,370	6,546	7,916	11,129	19,045
	1882	1,419	7,065	8,484	10,475	18,959
	1883	1,177	6,508	7,685	9,724	17,409
	1884	1,283	8,303	9,586	9,699	19,285
	1885	1,377	8,860	10,237	9,914	20,151
	1886	1,745	11,364	13,109	12,485	25,594
	1887	1,579	9,980	11,559	11,763	23,322
Nasik	1880	819	4,175	4,994	4,580	9,574
	1881	711	4,444	5,155	4,568	9,723
	1882	622	4,324	4,946	4,955	9,901
	1883	628	4,008	4,636	4,785	9,421
	1884	589	4,328	4,917	5,715	10,632
	1885	834	4,392	5,226	4,994	10,220
	1886	732	5,461	6,193	5,531	11,724
	1887	793	5,096	5,889	5,574	11,463
Thana	1880	558	2,194	2,752	1,916	4,668
	1881	601	2,856	3,457	2,034	5,491
	1882	531	2,440	2,971	2,093	5,064
	1883	526	2,613	3,139	2,062	5,201
	1884	594	2,566	3,160	2,491	5,651
	1885	503	2,521	3,024	2,575	5,599
	1886	625	3,016	3,641	2,738	6,379
	1887	661	3,432	4,093	2,794	6,887

APPENDIX D.

FORM No. 2—*contd.*

Statement showing the number of Suits instituted by and against Agriculturists in the Courts of the Subordinate Judges of nine Districts from 1880 to 1887.

District.	Year.	TOTAL NUMBER OF SUITS INSTITUTED.				
		By Agriculturists.	Against Agriculturists.	Total of Columns 3 and 4	Others.	Total of Columns 5 and 6.
1	2	3	4	5	6	7
Ratnagiri	1880	365	3,242	3,607	3,215	6,822
	1881	406	2,872	3,278	3,211	6,489
	1882	331	2,749	3,080	2,956	6,036
	1883	389	3,085	3,474	2,808	6,282
	1884	335	2,967	3,302	2,741	6,043
	1885	392	3,002	3,394	2,630	6,024
	1886	369	3,029	3,398	2,589	5,987
	1887	358	3,097	3,455	2,825	6,280
Bijapur	1880	236	444	680	1,792	2,472
	1881	222	476	698	1,473	2,171
	1882	290	492	782	1,544	2,326
	1883	244	374	618	1,240	1,858
	1884	240	316	556	1,368	1,924
	1885	235	333	568	1,223	1,791
	1886	284	528	812	1,775	2,587
	1887	311	371	682	1,804	2,486
Poona	1880—1883	2,569	7,499	10,068	...	...
	1884—1887	2,610	9,485	12,095	...	...
Satara	1880—1883	6,214	6,957	13,171	...	...
	1884—1887	5,200	10,935	16,135	...	...
Ahmednagar	1880—1883	2,723	6,551	9,274	...	...
	1884—1887	2,475	11,471	13,946	...	...
Sholapur	1880—1883	1,764	2,578	4,342	...	...
	1884—1887	2,328	2,929	5,257	...	...
Khandesh	1880—1883	4,991	25,801	30,792	...	...
	1884—1887	5,984	38,507	44,491	...	...
Nasik	1880—1883	2,780	16,951	19,731	...	...
	1884—1887	2,948	19,277	22,225	...	...
Thana	1880—1883	2,216	10,103	12,319	...	...
	1884—1887	2,383	11,535	13,918	...	...
Ratnagiri	1880—1883	1,491	11,948	13,439	...	...
	1884—1887	1,454	12,095	13,549	...	...
Bijapur	1880—1883	992	1,786	2,778	...	...
	1884—1887	1,070	1,548	2,618	...	...
Total Four Districts	1880—1883	13,270	23,585	36,855	...	...
	1884—1887	12,613	34,820	47,433	...	...
Total Five Districts	1880—1883	12,470	66,589	79,059	...	...
	1884—1887	13,839	82,962	96,801	...	...

Districts.	Year.	Total number of Suits instituted.				
		By Agriculturists.	Against Agriculturists.	Total of Columns 3 and 4.	Others.	Total of Columns 5 and 6.
1	2	3	4	5	6	7
The following are the numbers of Agriculturists' Suits per lakh of Land Revenue for Collection.						
Poona	1880—83	229	670	899	...	...
	1884—87	215	783	999	...	...
Satara	1880—83	400	448	849	...	...
	1884—87	332	700	1,032	...	...
Ahmednagar	1880—83	212	511	723	...	...
	1884—87	164	763	927	...	...
Sholapur	1880—83	185	271	457	...	...
	1884—87	221	278	499	...	...
Total 4 Districts	1880—83	270	481	751	...	...
	1884—87	236	653	889	...	...
Khandesh	1880—83	155	805	961	...	...
	1884—87	181	1,170	1,351	...	...
Nasik	1880—83	206	1,258	1,464	...	...
	1884—87	200	1,312	1,513	...	...
Thana	1880—83	164	752	917	...	...
	1884—87	196	950	1,147	...	...
Ratnagiri	1880—83	173	1,390	1,564	...	...
	1884—87	165	1,374	1,539	...	...
Bijapur	1880—83	82	149	231	...	...
	1884—87	83	120	203	...	...
Total 5 Districts	1880—83	156	837	994	...	...
	1884—87	169	1,019	1,188	...	...

A. F. WOODBURN,
On Special Duty.

APPENDIX D.

FORM No. 3.

Statement showing the General Result of the Trial of Cases in the Courts of the Subordinate Judges of nine Districts in the years 1880 to 1887.

Districts.	Year.	NUMBER OF SUITS DISPOSED OF — Without trial.	Without Contest. — Compromised. — Defendant Agriculturist.	Without Contest. — Compromised. — Others.	Without Contest. — Decreed on confession. — Defendant Agriculturist.	Without Contest. — Decreed on confession. — Others.	Without Contest. — Decreed *ex-parte* — Defendant Agriculturist.	Without Contest. — Decreed *ex-parte* — Others.	Without Contest. — Dismissed *ex-parte*	With Contest. — Judgment for Plaintiff in whole or in part. — Defendant Agriculturist.	With Contest. — Judgment for Plaintiff in whole or in part. — Others.	With Contest. — Judgment for Defendant. — Defendant Agriculturist.	With Contest. — Judgment for Defendant. — Others.	With Contest. — Otherwise disposed of.	Total disposed of.	AVERAGE DURATION OF SUITS. — Contested. (Y. m d.)	AVERAGE DURATION OF SUITS. — Uncontested. (Y. m. d.)
Poona	1880	846	106	176	893	375	131	270	47	240	453	50	80	208	3,875	0 6 26	0 2 19
	1881	963	286	252	381	432	155	233	48	558	504	98	97	97	4,104	0 5 2	0 3 10
	1882	1,067	298	225	317	286	120	143	38	923	512	113	105	31	4,178	0 6 11	0 3 16
	1883	483	389	344	373	406	152	162	22	1,034	664	202	153	54	4,438	0 6 22	0 3 11
	1884	486	551	451	367	380	119	170	73	1,077	659	167	153	56	4,709	0 5 19	0 3 9
	1885	805	736	283	426	358	241	208	28	1,116	554	158	100	105	5,118	0 5 15	0 3 19
	1886	647	903	457	248	356	305	257	69	974	637	191	162	55	5,261	0 5 7	0 3 1
	1887	741	515	357	155	253	153	184	31	687	551	133	105	87	3,952	0 4 24	0 2 28
															Average	0 5 23	0 3 6
Satara	1880	719	139	102	304	281	495	559	198	546	436	136	123	246	4,284	0 6 28	0 5 18
	1881	542	380	259	303	357	129	152	46	676	440	139	80	140	3,643	0 4 21	0 3 20
	1882	392	641	183	439	115	124	87	91	1,495	396	218	117	169	4,471	0 6 29	0 4 5
	1883	559	1,069	378	289	60	162	86	30	1,552	415	271	150	148	5,169	0 7 29	0 4 24
	1884	687	1,511	436	280	180	192	152	25	1,752	640	273	142	118	6,388	0 7 13	0 5 0
	1885	618	1,472	393	262	175	173	129	55	1.724	624	334	165	131	6,255	0 8 19	0 4 27
	1886	507	1,246	310	183	181	156	124	96	1,578	692	426	252	242	5,993	0 8 18	0 4 28
	1887	397	846	319	164	194	116	88	32	1,085	468	227	134	147	4,217	0 8 5	0 4 28
															Average	0 7 12	0 4 22
Ahmednagar	1880	677	248	383	271	591	185	675	62	286	616	64	156	253	4,520	0 4 26	0 3 15
	1881	471	392	414	184	823	47	388	47	422	682	109	113	14	4,106	0 5 8	0 3 24
	1882	612	539	459	261	761	101	278	63	843	749	155	137	5	4,957	0 6 2	0 3 20
	1883	434	617	480	295	515	85	231	36	835	728	171	137	14	4,578	0 5 3	0 3 16
	1884	416	849	582	220	612	72	176	38	859	786	139	159	5	4,913	0 5 20	0 3 25
	1885	450	1,276	785	261	673	94	283	20	1,173	1,019	201	160	14	6,409	0 5 24	0 3 22
	1886	484	1,421	889	275	847	110	279	26	1,098	875	191	149	24	6,658	0 5 25	0 3 5
	1887	467	1,011	732	224	836	62	261	14	821	872	196	150	9	5,655	0 5 5	0 2 28
															Average	0 5 14	0 3 15

APPENDIX D.

Form No. 3—*continued.*

Statement showing the General Result of the Trial of Cases in the Courts of the Subordinate Judges of nine Districts in the years 1880 to 1887.

Districts.	Year.	NUMBER OF SUITS DISPOSED OF														AVERAGE DURATION OF SUITS.	
		Without trial.	Without Contest.						Dismissed *ex-parte*.	With Contest.				Otherwise disposed of.	Total disposed of.	Contested.	Uncontested.
			Compromised.		Decreed on confession.		Decreed *ex-parte*.			Judgment for plaintiff in whole or in part.		Judgment for Defendant.					
			Defendant Agriculturist.	Others.	Defendant Agriculturist.	Others.	Defendant Agriculturist.	Others.		Defendant Agriculturist.	Others.	Defendant Agriculturist.	Others.			*Y. m. d.*	*Y. m. d.*
Sholapur	1880	504	91	297	93	554	20	245	148	106	641	19	96	281	3,095	0 4 3	0 4 17
	1881	404	49	291	99	429	30	158	65	189	617	33	112	2	2,478	0 4 3	0 3 8
	1882	427	85	342	120	170	24	123	44	225	518	37	73	6	2,134	0 6 24	0 3 12
	1883	407	126	364	172	307	60	138	40	457	747	97	132	5	2,782	0 6 18	0 5 6
	1884	323	225	442	120	448	9	127	45	430	687	104	133	3	3,096	0 5 11	0 3 11
	1885	337	226	379	176	480	12	173	34	528	773	145	145	5	3,413	0 4 29	0 2 18
	1886	336	308	469	107	604	10	236	18	366	829	111	125	4	3,523	0 4 18	0 2 14
	1887	302	231	515	55	621	15	275	28	269	829	118	169	12	3,439	0 4 12	0 2 19
															Average	0 5 3	0 3 13
Khandesh	1880	98	613	1,021	490	873	3,707	4,578	420	455	985	69	175	119	13,583	0 3 25	0 2 8
	1881	209	468	975	387	800	3,578	5,690	356	658	1,006	74	139	118	14,459	0 4 9	0 2 18
	1882	201	541	1,193	376	780	3,707	6,073	491	789	1,090	95	180	81	15,697	0 4 1	0 2 14
	1883	207	409	1,004	359	628	3,200	5,472	542	430	967	93	192	83	13,590	0 3 23	0 2 13
	1884	410	597	810	675	836	3,812	4,743	343	694	1,047	102	183	125	14,377	0 3 19	0 2 3
	1885	438	607	940	915	1,096	4,128	5,039	206	691	1,036	88	144	102	15,434	0 3 22	0 2 13
	1886	779	571	959	895	1,125	5,505	6,647	259	938	1,234	104	155	96	19,307	0 4 17	0 2 16
	1887	479	658	1,040	838	1,027	5,454	7,118	298	911	1,524	123	169	82	19,721	0 3 28	0 2 7
															Average	0 3 29	0 2 11

Nasik	1880	612	338	505	389	725	2,158	2,648	67	629	1,215	135	143	28	9,592	0 10 1	0 7 18
	1881	587	379	395	519	582	2,139	2,198	271	1,100	1,303	134	155	12	9,774	0 7 19	0 2 17
	1882	913	391	406	484	651	2,520	2,264	43	1,031	1,043	158	149	11	10,664	0 5 28	0 3 13
	1883	675	239	402	526	646	2,028	2,139	71	1,014	1,037	118	166	84	9,145	0 5 7	0 2 28
	1884	546	305	455	603	846	2,327	2,524	75	1,075	1,220	115	112	2	10,205	0 5 14	0 2 18
	1885	324	396	471	771	868	2.277	2,240	96	1,076	857	117	155	4	9,652	0 6 10	0 3 5
	1886	443	359	571	890	913	2,904	2,432	201	1,105	1,053	91	161	5	11,128	0 5 15	0 2 4
	1887	835	404	484	820	969	2,651	2,682	37	1,335	1,404	151	198	6	11,976	0 5 8	0 2 25
															Average	0 6 12	0 3 16
Thana	1880	135	257	192	405	430	765	690	61	643	437	137	56	33	4,241	0 7 6	0 4 28
	1881	175	336	188	650	472	1,151	726	69	893	518	143	75	33	5,432	0 7 26	0 5 28
	1882	180	245	139	558	641	965	827	35	687	464	125	70	52	4,988	0 7 18	0 3 7
	1883	263	234	118	506	459	1,071	620	16	934	669	215	102	16	5,223	0 5 15	0 3 14
	1884	382	159	95	561	431	905	612	8	792	515	179	86	15	4,740	0 4 27	0 3 23
	1885	357	186	220	789	571	1,096	900	34	774	666	142	93	34	5,872	0 7 24	0 3 23
	1886	342	239	208	748	616	1,414	1,051	13	631	601	121	81	11	6,076	0 6 11	0 4 4
	1887	300	312	252	664	533	1,361	1,081	10	855	578	136	70	46	6,198	0 5 9	0 3 19
															Average	0 6 17	0 4 3
Ratnagiri	1880	293	291	358	227	278	1,652	1,524	169	695	748	128	211	99	6,673	0 9 23	0 3 1
	1881	331	274	359	201	242	1,552	1,462	187	824	840	184	258	108	6,822	0 8 20	0 3 23
	1882	481	302	354	178	174	1,201	1,167	202	897	971	227	298	72	6,524	0 8 8	0 2 25
	1883	581	252	316	174	181	1,191	1,064	143	841	858	173	229	78	6,081	0 5 18	0 2 9
	1884	550	289	246	211	224	1,328	1,050	129	769	906	210	254	67	6,208	0 5 28	0 2 16
	1885	381	347	364	231	207	1,201	940	46	777	792	199	255	97	5,937	0 6 2	0 2 21
	1886	428	364	372	163	207	969	860	50	628	849	147	217	66	5,320	0 7 8	0 3 14
	1887	545	278	366	212	196	1,205	1,180	65	832	855	171	188	87	6,180	0 8 3	0 3 8
															Average	0 7 13	0 2 29
Bijapur	1880	30	21	93	3	32	280	1,372	96	63	191	21	31	170	2,403	0 3 2	0 2 2
	1881	34	35	102	10	61	364	869	168	46	248	14	30	...	1,981	0 3 20	0 1 25
	1882	158	44	253	27	63	301	1,103	245	83	226	23	80	23	2,629	0 4 19	0 2 21
	1883	91	33	123	28	43	205	729	227	51	210	29	69	11	1,849	0 4 9	0 2 16
	1884	94	47	112	10	33	228	783	200	87	274	29	71	16	1,984	0 3 9	0 2 1
	1885	78	46	113	4	24	190	701	140	98	270	33	51	8	1,750	0 3 19	0 2 2
	1886	75	50	169	24	69	297	1,177	136	171	344	27	57	16	2,612	0 4 6	0 2 4
	1887	115	76	172	27	52	330	1,037	199	147	211	32	37	20	2,455	0 4 27	0 2 8
															Average	0 3 29	0 2 6

APPENDIX D.

Form No. 3—*continued.*

Districts.	Year.	Number of suits disposed of: Without trial.	Without Contest: Compromised: Defendant Agriculturist.	Compromised: Others.	Decreed on confession: Defendant Agriculturist.	Decreed on confession: Others.	Decreed *ex-parte*: Defendant Agriculturist.	Decreed *ex-parte*: Others.	Dismissed *ex-parte*.	With Contest: Judgment for Plaintiff in whole or in part: Defendant Agriculturist.	Judgment for Plaintiff: Others.	Judgment for Defendant: Defendant Agriculturist.	Judgment for Defendant: Others.	Otherwise disposed of.	Total disposed of.	Average duration of suits: Contested.	Average duration of suits: Uncontested.
																Y. m. d.	Y. m. d.
Poona	1880-83	...	1,079	...	1,964	...	558	...	...	2,755	...	463	...	...	...	...	...
	1884-87	...	2,705	...	1,196	...	818	...	...	3,854	...	649	...	...	...	...	...
Satara	1880-83	...	2,229	...	1,335	...	910	...	...	4,269	...	764	...	...	...	...	...
	1884-87	...	5,075	...	889	...	637	...	...	6,139	...	1,260	...	...	...	...	...
Ahmednagar	1880-83	...	1,796	...	1,011	...	418	...	...	2,386	...	499	...	...	...	...	...
	1884-87	...	4,557	...	980	...	338	...	...	3,951	...	727	...	...	...	...	...
Sholapur	1880-83	...	351	...	484	...	134	...	...	977	...	186	...	...	...	...	...
	1884-87	...	990	...	458	...	46	...	...	1,593	...	478	...	...	...	...	...
Khandesh	1880-83	...	2,031	...	1,612	...	14,192	...	...	2,332	...	331	...	...	...	...	...
	1884-87	...	2,433	...	3,323	...	18,899	...	...	3,234	...	417	...	...	...	...	...
Nasik	1880-83	...	1,347	...	1,918	...	8,845	...	...	3,774	...	545	...	...	...	...	...
	1884-87	...	1,464	...	3,084	...	10,159	...	...	4,591	...	474	...	...	...	...	...
Thana	1880-83	...	1,072	...	2.119	...	3.952	...	...	3,157	...	620	...	...	...	...	...
	1884-87	...	896	...	2,762	...	4,776	...	...	3,052	...	578	...	...	...	...	...
Ratnagiri	1880-83	...	1,11[illegible]	...	780	...	5,596	...	...	3,257	...	712	...	...	...	...	...
	1884-87	...	1,278	...	817	...	4,698	...	...	3,006	...	727	...	...	...	...	...
Bijapur	1880-83	...	133	...	68	...	1,150	...	...	243	...	87	...	...	...	...	...
	1884-87	...	219	...	65	...	1,045	...	...	503	...	121	...	...	...	...	...
4 Districts	1880-83	...	5,455	...	4,794	...	2,020	...	...	10,387	...	1,912	...	...	...	...	...
	1884-87	...	13,327	...	3,523	...	1,839	...	...	15,537	...	3,114	...	...	...	...	...
5 Districts	1880-83	...	5,722	...	6,487	...	33,735	...	...	12,763	...	2,295	...	...	...	...	...
	1884-87	...	6,290	...	10,051	...	39,577	...	...	14,386	...	2,317	...	...	...	...	...

APPENDIX D.

Form No. 3—*concluded.*

Districts.	Year.	Without trial.	PERCENTAGE OF SUITS UNDER THE HEADINGS BELOW MENTIONED TO TOTAL DISPOSALS UNDER THE SAME HEADINGS. — Without Contest. — Compromised. — Defendant Agriculturist.	Compromised. — Others.	Decreed on confession. — Defendant Agriculturist.	Decreed on confession. — Others.	Decreed *ex-parte*. — Defendant Agriculturist.	Decreed *ex-parte*. — Others.		With Contest. — Judgment for Plaintiff in whole or in part. — Defendant Agriculturist.	Judgment for Plaintiff in whole or in part. — Others.	Judgment for Defendant. — Defendant Agriculturist.	Judgment for Defendant. — Others.	Otherwise disposed of.	Total disposed of.	Average Duration of Suits. — Contested.	Average Duration of Suits. — Uncontested.
																Y. m. d.	Y. m. d.
Poona	1880-83	...	15	...	28	...	8	...	...	40	...	6	...	...	...	...	...
	1884-87	...	29	...	12	...	8	...	...	41	...	7	...	...	...	...	...
Satara	1880-83	...	23	...	14	...	9	...	...	44	...	8	...	...	...	...	...
	1884-87	...	36	...	6	...	4	...	...	43	...	9	...	...	...	...	...
Ahmednagar	1880-83	...	29	...	16	...	6	...	...	39	...	8	...	...	...	...	...
	1884-87	...	43	...	9	...	3	...	...	37	...	6	...	...	...	...	...
Sholapur	1880-83	...	16	...	22	...	6	...	...	45	...	8	...	...	...	...	...
	1884-87	...	27	...	12	...	1	...	...	44	...	13	...	...	...	...	...
Khandesh	1880-83	...	9	...	7	...	69	...	...	11	...	1	...	...	...	...	...
	1884-87	...	8	...	11	...	66	...	...	11	...	1	...	...	...	...	...
Nasik	1880-83	...	8	...	11	...	53	...	...	22	...	3	...	...	...	...	...
	1884-87	...	7	...	15	...	51	...	...	23	...	2	...	...	...	...	...
Thana	1880-83	...	9	...	19	...	36	...	...	28	...	5	...	...	...	...	...
	1884-87	...	7	...	22	...	39	...	...	25	...	4	...	...	...	...	...
Ratnagiri	1880-83	...	9	...	6	...	48	...	...	28	...	6	...	...	...	...	...
	1884-87	...	12	...	7	...	44	...	...	28	...	6	...	...	...	...	...
Bijapur	1880-83	...	7	...	4	...	68	...	...	14	...	5	...	...	...	...	...
	1884-87	...	11	...	3	...	53	...	...	25	...	6	...	...	...	...	...
4 Districts	1880-83	...	22	...	19	...	8	...	...	42	...	7	...	...	...	...	...
	1884-87	...	35	...	9	...	4	...	...	41	...	8	...	...	...	...	...
5 Districts	1880-83	...	9	...	10	...	55	...	...	20	...	3	...	...	...	...	...
	1884-87	...	8	...	13	...	54	...	...	19	...	3	...	...	...	...	...

A. F WOODBURN,
On Special Duty.

APPENDIX D.

Form No. 4.

Statement showing Result of Proceedings on Applications for Execution of Decrees in the Courts of the Subordinate Judges of nine Districts from 1880 to 1887.

District.	Year.	Total number of Applications for execution of Decrees.	Applications disposed of				Pending at the end of the year.	Number of Applications								
			By Transfer.	Satisfaction obtained in full.	Satisfaction obtained in part.	Wholly infructuous		On which the Judgment debtor was imprisoned.	On which he was arrested, but released without imprisonment.	On which Moveable Property		On which Immoveable Property			On which possession was given	
										Was sold.	Was attached, but subsequently released.	Was sold.	Was dealt with under Sections 305, 322, or 362, Act XIV of 1882.	Was attached, but subsequently released under Section 275.	Of Moveables.	Of Immoveables.
Poona	1880	10,783	260	1,207	1,943	4,715	2,658	44	...	141	236	482	3	972	89	110
	1881	11,613	...	1,166	2,178	5,140	3,129	27	53	89	128	523	7	515	2	173
	1882	12,039	...	1,233	2,403	5,336	3,067	22	33	63	57	359	25	331	28	250
	1883	10,494	...	1,319	2,069	5,052	2,054	7	27	75	71	294	34	242	11	352
	1884	10,752	...	1,388	2,063	5,140	2,161	19	30	57	75	176	1	80	9	396
	1885	11,268	...	1,409	2,384	5,164	2,311	16	34	60	76	176	...	114	5	431
	1886	12,657	1	1,651	2,479	6,050	2,476	16	22	73	58	195	...	132	1	396
	1887	13,002	504	1,589	2,283	5,839	2,787	6	27	59	47	156	3	83	1	331
Satara	1880	11,207	429	1,074	1,436	6,053	2,215	43	8	136	887	492	196	932	...	307
	1881	10,052	1	1,079	1,219	4,889	2,864	33	40	63	130	310	8	277	1	372
	1882	11,637	1	1,277	1,573	6,091	2,695	40	43	54	122	368	10	279	5	433
	1883	9,192	...	1,253	1,156	4,490	2,293	11	17	54	111	206	17	304	7	651
	1884	10,047	...	1,750	1,326	4,841	2,130	8	9	57	84	188	8	167	2	914
	1885	9,423	...	1,759	1,386	4,322	1,956	10	12	42	67	142	8	93	2	843
	1886	9,251	...	1,927	1,442	3,795	2,087	14	8	37	70	175	3	119	3	793
	1887	10,331	...	2,058	1,327	4,440	2,506	9	11	42	55	185	...	89	1	833
Ahmednagar	1880	13,242	587	1,106	1,496	7,364	2,689	38	76	137	262	285	77	260	5	147
	1881	11,073	2	891	1,379	5,916	3,780	19	84	101	127	257	32	165	14	142
	1882	12,721	164	1,502	1,568	8,168	2,704	27	127	107	155	291	63	291	24	219
	1883	10,347	...	1,214	1,198	6,761	2,194	14	55	85	100	197	72	63	19	234
	1884	11,091	...	1,256	1,271	6,568	2,759	16	61	79	98	120	21	57	23	257
	1885	12,927	...	1,337	1,794	8,165	2,546	39	111	113	124	126	9	97	17	266
	1886	14,644	...	1,589	2,310	8,522	3,054	27	156	131	161	168	30	121	73	277
	1887	14,876	2	1,899	2,341	9,136	2,787	31	109	1 35	206	216	16	116	39	351

Sholapur	1880	4,100	...	489	805	2,136	670	20	13	74	148	251	128	262	...	91
	1881	4,926	...	471	636	2,932	887	8	24	40	89	150	20	201	...	77
	1882	4,492	...	553	661	2,398	880	11	17	23	56	95	29	141	...	133
	1883	4,187	...	703	481	2,358	645	7	19	36	29	47	58	54	...	178
	1884	4,444	...	758	705	2,124	857	16	39	67	53	55	11	82	2	238
	1885	5,196	6	931	1,110	2,318	831	16	26	71	47	77	13	35	2	237
	1886	6,021	...	1,109	1,178	2,698	1,036	6	64	57	45	66	11	40	4	291
	1887	6,286	...	1,164	1,223	2,861	1,038	18	108	159	96	119	57	71	2	269
Khandesh	1880	40,911	1	3,743	6,999	21,341	8,828	212	102	559	813	1,603	2	1,563	...	300
	1881	43,877	...	4,104	7,280	21,293	1,209	209	266	472	575	1,067	45	422	8	261
	1882	48,537	...	5,723	8,901	25,491	8,422	300	305	495	699	1,261	15	951	1	299
	1883	41,115	...	4,685	8,191	20,307	7,932	263	299	466	463	1,355	61	708	1	350
	1884	42,117	...	4,665	9,008	20,095	8,348	271	365	507	837	1,279	84	406	1	253
	1885	46,232	1	5,114	10,077	20,504	10,537	348	357	576	812	1,228	22	804	8	318
	1886	50,923	...	6,170	12,286	22,270	12,197	473	378	542	737	1,452	8	1,038	7	238
	1887	55,570	...	6,361	12,557	23,570	13,082	392	324	505	706	1,388	72	1,011	9	330
Nasik	1880	18,135	...	2,060	3,502	9,961	2,612	168	41	395	678	639	185	616	5	223
	1881	17,902	5	1,941	3,073	9,5[illegible]2	3,321	229	130	334	456	422	132	309	3	193
	1882	18,420	...	2,126	3,323	10,556	2,415	225	171	322	494	387	64	336	11	204
	1883	18,604	...	2,193	3,261	9,515	3,635	178	124	267	394	416	97	333	6	196
	1884	20,073	...	2,420	3,847	9,589	4,217	212	182	257	302	546	161	228	14	217
	1885	20,460	214	2,450	4,121	9,943	3,732	261	108	262	323	541	205	351	13	240
	1886	22,042	...	2,857	4,194	10,137	4,854	239	131	215	292	469	124	442	9	256
	1887	23,917	...	3,160	5,013	11,950	3,794	246	172	270	201	485	248	589	20	229
Thana	1880	10,836	154	866	1,563	6,410	2,366	69	115	353	290	444	66	341	10	131
	1881	9,746	...	830	1,628	5,127	2,506	52	109	283	199	336	4	145	12	127
	1882	10,453	87	877	1,928	5,602	2,445	46	121	319	206	402	12	129	14	100
	1883	9,942	1	976	1,812	5,020	2,628	29	135	291	172	458	16	137	8	142
	1884	10,849	...	1,001	1,959	5,777	2,718	65	126	263	180	367	6	96	10	181
	1885	11,225	...	1,139	2,098	6,000	2,510	66	171	300	235	460	22	189	5	174
	1886	11,887	...	1,079	2,207	6,502	2,554	64	131	307	205	399	10	199	18	210
	1887	12,110	...	1,112	2,065	6,399	3,112	53	334	449	278	475	21	176	8	126
Ratnagiri	1880	11,370	...	1,496	1,101	6,731	2,968	26	53	274	300	704	3	690	1	275
	1881	10,320	...	1,441	1,258	6,463	2,528	34	83	203	478	837	18	334	2	262
	1882	9,833	...	1,403	969	6,317	249	62	84	154	138	651	66	388	6	243
	1883	9,781	29	1,507	886	5,932	2,561	79	46	115	132	591	48	409	...	285
	1884	9,842	...	1,622	944	6,250	2,234	69	81	92	114	545	22	388	9	265
	1885	9,539	...	1,538	896	5,747	2,346	73	62	105	95	501	10	399	4	348
	1886	8,870	1	1,409	598	5,660	2,[illegible]32	63	82	76	92	395	17	353	2	248
	1887	9,032	...	1,482	710	5,565	2,250	46	82	86	94	392	15	366	1	300
Bijapur	1880	2,599	...	390	306	1,371	532	2	3	36	77	187	...	232	1	44
	1881	2,415	...	454	253	1,221	487	6	31	49	43	124	2	60	...	76
	1882	2,810	...	421	209	1,730	450	6	33	31	48	105	...	77	...	61
	1883	2,327	...	326	145	1,369	487	10	37	20	28	76	1	59	1	68
	1884	2,324	...	313	169	1,444	398	3	42	27	32	76	2	62	...	88
	1885	2,236	12	294	177	1,319	434	19	48	34	16	82	1	25	10	83
	1886	2,783	...	395	251	1,688	449	148	77	44	48	122	...	44	1	87
	1887	2,841	...	445	246	1,725	425	13	71	39	51	96	...	50	5	106

APPENDIX D.

FORM No. 4.—*continued.*

Statement showing Result of Proceedings on Applications for Execution of Decrees in the Courts of the Subordinate Judges of nine Districts from 1880 to 1887.

District.	Year.	Total number of Applications for execution of Decrees.	Applications disposed of: By Transfer.	Satisfactoin obtained in full.	Satisfaction obtained in part.	Wholly infructuous.	Pending at the end of the year.	Number of applications: On which the Judgment-debtor was imprisoned.	On which he was arrested, but released without imprisonment.	On which immovable property: Was sold.	Was attached, but subsequently released.	On which moveable property: Was sold.	Was dealt with under Section 305, 322, or 362, Act XIV of 1882.	Was attached, but subsequently released under Section 275.	On which possession was given: Of Moveables.	Of immoveables.
Poona	1880–83	44,929	260	4,925	8,593	20,243	10,908	100	113	368	492	1,658	69	2,060	130	885
	1884–87	47,679	505	6,037	9,209	22,193	9,735	57	113	249	256	703	4	409	16	1,554
Satara	1880–83	42,088	431	4,683	5,384	21,523	10,067	127	108	307	1,250	1,376	231	1,792	13	1,763
	1884–87	39,052	...	7,494	5,481	17,398	8,679	41	40	178	276	690	19	468	8	3,383
Ahmednagar	1880–83	47,383	753	4,713	5,634	28,209	11,367	98	342	430	644	1,030	244	779	62	742
	1884–87	53,538	2	6,081	7,716	32,391	11,146	113	437	458	589	630	76	391	152	1,151
Sholapur	1880–83	17,705	...	2,216	2,583	9,824	3,082	46	73	173	322	543	235	658	...	479
	1884–87	21,947	6	3,962	4,216	10,001	3,762	56	237	354	241	317	92	229	10	1,084
TOTAL	1880–83	152,105	1,444	16,537	22,194	79,799	35,424	371	636	1,278	2,708	4,607	779	5,289	205	3,869
	1884–87	162,216	513	23,574	26,622	81,983	33,322	267	827	1,239	1,362	2,340	191	1,497	186	7,172
Khandesh	1880–83	174,440	1	18,255	31,371	88,432	36,391	984	972	1,992	2,550	5,286	123	3,644	10	1,210
	1884–87	194,842	1	22,310	43,928	86,439	44,164	1,481	1,424	2,130	3,092	5,347	186	3,259	25	1,139
Nasik	1880–83	73,061	5	8,320	13,159	39,594	11,983	800	466	1,318	2,022	1,864	478	1,594	25	816
	1884–87	86,492	214	10,887	17,175	41,619	16,597	958	593	1,004	1,118	2,041	738	1,610	56	942
Thana	1880–83	40,977	242	3,549	6,931	22,159	9,945	196	480	1,246	867	1,640	98	752	44	500
	1884–87	46,071	...	4,331	8,324	24,678	10,894	248	762	1,319	898	1,701	59	660	41	691
Ratnagiri	1880–83	41,304	29	5,847	4,214	25,443	10,479	201	266	746	748	2,783	135	1,821	9	1,065
	1884–87	37,283	1	6,051	3,148	23,222	8,962	251	307	359	395	1,833	64	1,506	16	1,161
Bijapur	1880–83	10,151	...	1,591	913	5,691	1,956	24	104	136	201	492	3	428	2	249
	1884–87	10,184	12	1,447	843	6,176	1,706	53	238	144	147	376	3	181	16	364
TOTAL	1880–83	339,933	277	37,562	56,588	181,319	70,754	2,205	2,288	5,438	6,388	12,065	837	8,239	90	384
	1884–87	374,872	228	45,026	73,418	182,134	82,323	2,991	3,324	4,956	5,650	11,298	1,050	7,216	154	4,297

		Total disposed of in the year.	Percentage of figures in the various columns to total number disposed of.												
Poona	1880–83	34,021	·7	14·4	25·2	59·5	...	·2	·3	1·0	1·4	4·8	·2	6·0	·3	2·6
	1884–87	37,944	1·3	15·9	24·2	53·4	...	·1	·2	·6	·6	1·8	·01	1·0	·04	4·0
Satara	1880–83	32,021	1·3	14·6	16·8	67·2	...	·3	·3	·9	3·9	4·2	·7	5·5	·04	5·5
	1884–87	30,373	...	24·6	18·0	57·2	...	·1	·1	·5	·9	2·2	·06	1·5	·02	11·1
Ahmednagar	1880–83	36,016	2·0	13·0	15·6	78·3	...	·2	·9	1·1	1·7	2·8	·6	2·1	·1	2·0
	1884–87	42,392	·004	14·3	18·2	76·4	...	·2	1·0	1·0	1·3	1·4	·1	·9	·3	2·7
Sholapur	1880–83	14,623		15·1	17·6	67·1	...	·3	·4	1·1	2·2	3·7	1·6	4·4	...	3·2
	1884–87	18,185	0·3	21·7	23·1	54·9	...	·3	1·3	1·9	1·3	1·7	·5	1·2	·05	5·9
Four Districts	1880–83	116,681	1·2	14·1	19·0	68·3	...	·3	·5	1·0	2·3	3·9	·6	4·5	·1	3·3
	1884–67	128,894	·3	18·2	20·6	63·6	...	·2	·6	·9	1·0	1·8	·1	1·1	·1	5·5
Khandesh	1880–83	138,049	·0007	13·2	22·7	64·0	...	·7	·7	1·4	1·8	3·8	·08	2·6	·007	·8
	1884–87	150,678	·0006	14·8	29·1	57·3	...	·9	·9	1·4	2·0	3·5	·1	2·1	·01	·7
Nasik	1880–83	61,078	·008	13·6	21·5	64·8	...	1·3	·7	2·1	3·3	3·0	·7	2·6	·04	1·3
	1884–87	69,895	·3	15·5	24·5	59·5	...	1·3	·8	1·4	1·5	2·9	1·0	2·3	0·8	1·3
Thana	1880–83	31,032	·7	11·4	22·3	71·3	...	·6	1·5	4·0	2·7	5·2	·3	2·4	·1	1·6
	1884–87	35,177	...	12·3	23·6	70·1	...	·7	2·1	3·7	2·5	4·8	·1	1·8	·1	·19
Ratnagiri	1880–83	30,825	·09	18·9	13·6	82·5	...	·6	·8	2·4	2·4	9·0	·4	5·9	·02	3·4
	1884–87	28,321	·003	21·3	11·1	81·9	...	·8	1·0	1·2	1·3	6·4	·2	5·3	·05	4·0
Bijapur	1880–83	8,195	...	19·4	11·1	69·4	...	·2	1·2	1·6	2·4	6·0	0·3	5·2	·02	4·0
	1884–87	8,478	·1	17·0	9·9	72·8	...	·6	2·8	1·6	1·7	4·4	·03	2·1	·1	4·2
Five Districts	1880–83	269,179	·1	13·9	21·0	67·3	...	·8	·8	2·0	2·3	4·4	·3	3·0	·03	1·4
	1884–87	292,549	·07	15·3	25·0	62·2	...	1·0	1·1	1·6	1·9	3·8	·3	2·4	·05	1·4

A. F. WOODBURN,
On Special Duty.

APPENDIX D.

No. 21.

FORM No. 5.

Statement showing the number of Decrees in respect of which no application has been made for execution in the Courts of the Subordinate Judges of nine Districts from 1880 to 1887.

District	Year	Number of Sterile Decrees
Poona	1880	1,192
	1881	1,133
	1882	1,114
	1883	1,355
	1884	1,471
	1885	2,095
	1886	1,815
	1887	2,030
	Total	12,205
Satara	1880	1,254
	1881	1,634
	1882	1,817
	1883	2,241
	1884	2,360
	1885	2,772
	1886	2,421
	1887	2,215
	Total	16,714
Ahmednagar	1880	895
	1881	1,045
	1882	1,071
	1883	1,240
	1884	1,163
	1885	1,784
	1886	2,118
	1887	2,134
	Total	11,450
Sholapur	1880	724
	1881	630
	1882	520
	1883	585
	1884	618
	1885	811
	1886	1,080
	1887	1,203
	Total	6,171
Khandesh	1880	5,536
	1881	5,348
	1882	5,479
	1883	4,654
	1884	4,574
	1885	4,825
	1886	7,454
	1887	8,538
	Total	46,408
Nasik	1880	1,941
	1881	2,212
	1882	1,547
	1883	1,910
	1884	1,917
	1885	2,056
	1886	2,879
	1887	4,114
	Total	18,576
Thana	1880	877
	1881	1,105
	1882	941
	1883	1,134
	1884	913
	1885	1,273
	1886	1,682
	1887	2,430
	Total	10,355
Ratnagiri	1880	1,682
	1881	1,346
	1882	1,202
	1883	1,229
	1884	1,170
	1885	1,377
	1886	1,668
	1887	2,338
	Total	12,012
Bijapur	1880	797
	1881	768
	1882	642
	1883	726
	1884	457
	1885	416
	1886	875
	1887	1,311
	Total	5,992

District.	Number of Decrees entered in Form No. 5.	Annual Average.	"Total disposed of," Form 3.	Deduct disposed of "without trial."	Remainder disposed of.	Annual Average of column 5.	Per cent. of column 2 to column 6.
	1	2	3	4	5	6	7
Poona	12,205	1,525	35,635	6,038	29,597	3,699	41·2
Satara	16,714	2,089	40,420	4,421	35,999	4,499	46·4
Ahmednagar	11,450	1,432	41,796	4,011	37,785	4,723	30·3
Sholapur	6,171	771	23,960	3,040	20,920	2,615	29·4
FOUR DISTRICTS	46,540	5,817	141,811	17,510	124,301	15,537	37·4
Khandesh	46,408	5,801	126,168	2,821	123,347	15,418	37·6
Nasik	18,576	2,322	81,536	4,935	76,601	9,575	24·2
Thana	10,355	1,294	42,770	2,134	40,636	5,079	25·4
Ratnagiri	12,012	1,501	49,745	3,570	46,175	5,771	26
Bijapur	5,992	749	17,669	675	16,994	2,124	35·2
FIVE DISTRICTS	93,343	11,667	317,888	14,135	303,753	37,969	30·7

A. F. WOODBURN,
On Special Duty.

No. 22

APPENDIX D.

FORM No. 6.

Statement showing the number, etc., of Decrees remaining unsatisfied for more than seven years in the Subordinate Courts of nine Districts.

District.	Year.	Number of Decrees.	Amount of Decree.	How may times executed.	Amount realized.	Cost of execution.	Balance due.
			R a. p.		R	R a. p.	R a. p.
Poona	1875	306	22,909 0 0	564	3,506 0 0	505 0 0	19,908 0 0
	1876	3,930	2,63,133 0 0	6,361	30,058 0 0	5,920 0 0	2,38,995 0 0
	1877	2,867	1,89,862 0 0	4,725	27,478 0 0	4,077 0 0	1,66,461 0 0
	1878	2,435	1,34,193 0 0	4,082	22,398 0 0	3,778 0 0	1,15,573 0 0
	1879	2,822	3,48,317 0 0	4,048	38,307 0 0	4,328 0 0	3,14,338 0 0
	1880	2,578	5,84,568 0 0	2,317	45,093 0 0	2,316 0 0	5,41,791 0 0
	1881	1,161	64,814 0 0	1,473	23,215 0 0	788 0 0	42,387 0 0
	Total	16,099	16,07,796 0 0	23,570	1,90,055 0 0	21,712 0 0	14,39,453 0 0
Satara	1876	3,879	3,26,347 0 0	5,135	24,581 0 0	4,686 0 0	3,06,535 0 0
	1877	2,493	2,08,777 0 0	3,083	15,371 0 0	2,882 0 0	1,96,288 0 0
	1878	2,282	1,93,328 0 0	3,404	12,918 0 0	3,174 0 0	1,83,474 0 0
	1879	2,660	2,38,514 0 0	3,720	14,612 0 0	3,674 0 0	2,27,474 0 0
	1880	1,047	1,35,768 0 0	1,458	14,366 0 0	1,700 0 0	1,23,070 0 0
	Total	12,361	11,02,734 0 0	16,800	81,848 0 0	16,116 0 0	10,36,841 0 0
Ahmednagar	1875	1,314	96,577 0 0	959	9,526 0 0	1,089 0 0	88,140 0 0
	1876	2,632	2,33,330 0 0	2,741	18,313 0 0	2,788 0 0	2,17,806 0 0
	1877	1,801	1,58,981 0 0	2,311	6,463 0 0	2,252 0 0	1,54,770 0 0
	1878	2,953	2,25,095 0 0	2,917	13,245 0 0	2,063 0 0	2,13,914 0 0
	1879	2,834	2,18,668 0 0	4,044	17,401 0 0	1,977 0 0	2,03,245 0 0
	1880	1,746	1,34,523 0 0	3,228	24,771 0 0	1,871 0 0	1,11,585 0 0
	1881	43	3,723 0 0	111	648 0 0	67 0 0	3,142 0 0
	Total	13,323	10,70,897 0 0	16,311	90,367 0 0	12,107 0 0	9,92,602 0 0
Sholapur	1875	133	16,802 0 0	607	3,385 0 0	479 0 0	13,875 0 0
	1876	127	22,703 0 0	515	5,434 0 0	491 0 0	17,752 0 0
	1877	107	17,507 0 0	527	3,720 0 0	330 0 0	14,153 0 0
	1878	257	42,014 0 0	768	13,121 0 0	637 0 0	29,620 0 0
	1879	250	34,752 0 0	764	8,503 0 0	537 0 0	26,5[illegible]5 0 0
	1880	243	28,144 0 0	738	6,412 0 0	527 0 0	21,826 0 0
	Total	1,117	1,61,922 0 0	3,919	40,575 0 0	3,001 0 0	1,23,731 0 0
	Total 4 Districts	42,900	39,43,349 0 0	60,600	4,02,845 0 0	52,936 0 0	35,92,627 0 0
Khandesh	1874	1,786	1,56,959 0 0	2,085	7,791 0 0	1,926 0 0	1,51,194 0 9
	1875	1,495	1,27,118 0 0	2,296	9,701 0 0	2,040 0 0	1,24,563 0 0
	1876	2,356	1,90,119 0 0	5,537	23,864 0 0	8,961 0 0	1,75,216 0 0
	1877	2,135	1 56,456 0 0	4,878	27,372 0 0	7,135 0 0	1,36,219 0 0
	1878	2,649	2,34,928 0 0	6,319	41,007 0 0	12,056 0 0	2,08,977 0 0
	1879	2,753	2,17,579 0 0	6,223	43,496 0 0	13,096 0 0	1,82,179 0 0
	1880	6,118	5,18,750 0 0	13,665	1,16,779 0 0	19,074 0 0	4,20,455 0 0
	1881	786	56,214 0 0	1.749	13,578 0 0	1,643 0 0	44,280 0 0
	Total	20,078	16,58,123 0 0	42,752	2,83,588 0 0	65,931 0 0	14,43,083 0 0
Nasik	1876	916	84,449 0 0	...	8,992 0 0	2,141 0 0	77,598 0 0
	1877	597	58,403 0 0	...	7,096 0 0	1,790 0 0	53,098 0 0
	1878	860	64,151 0 0	...	9,633 0 0	2,474 0 0	56,992 0 0
	1879	1,212	1,04,780 0 0	...	14,621 0 0	3,924 0 0	94,083 0 0
	1880	1,185	1,02,428 0 0	...	17,614 0 0	4,183 0 0	88,997 0 0
	Total	4,770	4,14,211 0 0	...	57,956 0 0	14,512 0 0	3,70,768 0 0
Thana	1875	1,760	1,25,031 3 6	3,658	18,136 10 7	1,476 5 6	1,08,370 15 1
	1876	1,973	1,25,451 15 8	4,125	20,566 9 1	2,615 10 6	1,06,951 1 1
	1877	1,738	1,21,520 15 5	3,301	26,681 8 5	2,728 13 2	97,558 4 2
	1878	1,642	1,25,768 7 10	3,367	20,639 14 10	2,727 5 4	1,07,855 14 2
	1879	1,907	1,38,739 5 3	3,[illegible]28	21,360 1 2	3,360 8 10	1,20,739 12 11
	1880	1,525	1,15,828 11 5	3,659	21,815 5 6	2,380 6 2	96,393 1 1
	Total	10,545	7,52,340 11 1	21,938	1,29,200 1 7	15,289 1 6	6,37,869 0 6
Ratnagiri	1876	1,820	1,43,961 0 0	3,533	14,941 0 0	4,731 0 0	1,33,748 0 0
	1877	1,601	1,01,044 0 0	2,814	7,790 0 0	3,966 0 0	97,223 0 0
	1878	1,971	1,28,327 0 0	3,177	11,537 0 0	4,945 0 0	1,21,717 0 0
	1879	2,113	1,43,403 0 0	2,993	12,279 0 0	4,365 0 0	1,35,538 0 0
	1880	2,107	1,33,932 0 0	2,635	14,616 0 0	3,897 0 0	1,23,360 0 0
	Total	9,612	6,50,667 0 0	15,152	61,163 0 0	21,904 0 0	6,11,586 0 0
Bijapur	1874	189	18,843 7 10	269	1,609 4 7	278 9 8	16,198 6 7
	1875	219	38,515 1 7	482	3,867 3 3	559 5 11	35,343 12 6
	1876	203	29,464 2 6	357	2,341 8 0	432 7 0	27,931 2 2
	1877	144	20,684 12 0	265	1,621 10 9	403 2 0	19,475 2 1
	1878	215	37,246 3 1	442	3,115 13 1	1,123 2 3	35,779 7 3
	1879	189	16,178 3 2	418	1,467 7 7	1,375 5 6	15,022 4 11
	1880	288	29,259 5 7	463	1,999 11 8	396 10 10	26,551 8 11
	Total	1,447	1,90,191 3 9	2,696	16,022 10 11	4,568 11 2	1,76,301 12 5
	Total 5 Districts	46,452	36,65,532 14 10	82,538	5,47,929 12 6	1,22,204 12 8	...

Districts.	Average number of times decrees executed.	Percentage of amount realized to amount of decrees.	Percentage of cost of execution to amount realized.	Percentage of net amount realized to amount of decrees.	Districts.	Average number of times decrees executed.	Percentge of amount realized to amount of decrees.	Percentage of cost of execution to amount realized.	Percentage of net amount realized to amount of decrees.
Poona	1·4	11·8	11·4	10·4	Khandesh	2·1	17·1	23·2	13·1
Satara	1·3	7·4	19·6	5·9	Nasik	...	13·9	25·0	10·4
Ahmednagar	1·2	8·4	13·3	7·3	Thana	2·0	17·1	11·8	15·1
Sholapur	3·5	25·9	7·3	23·2	Ratnagiri	1·5	9·4	35·8	6·0
					Bijapur	1·8	8·4	28·5	6·0
Four districts	1·4	10·2	13·1	8·8	Five districts	1,9	14·9	22 3	11·6

A. F. WOODBURN,

On Special Duty.

APPENDIX D.

Form No. 7.

Statement showing the total number of cases received and disposed of by the Subordinate Courts in the Districts of Poona, Satara. Ahmednagar, and Sholapur, under Chapter II of Act XVII of 1879 from 1883 to 1887.

Year.	Suits for disposal.	Disposed of.																	Special Particulars.					
						Contested.							By transfer to the					Disposed of by Bench.					
		Plaint returned.	Dismissed.	Decreed *ex parte.*	Admitted.	Awarded wholly.	Awarded in part.	Rejected.	Total.	Abated or dismissed.	Withdrawn or compromised.	Disposed of by Arbitration.	Special Judge.	Special Subordinate Judge.	Other Court.	Dormant File.	Total.	With Special Judge.	With Special Subordinate Judge.	In how many cases defendants personally examined under section 7.	In how many cases past history of transaction investigated under section 12.	In how many cases references to arbitration under section 15.	In how many cases decree directs payment by instalments.
1884 . .	17,584	23	978	610	2,300	2,337	2,004	682	5,023	53	3,897	3	1	...	1	64	12,960	...	...	8,335	1,871	6	4,560
1885 . .	19,350	15	989	827	2,453	2,672	2,207	776	5,655	50	4,731	30	...	...	2	79	14,831	...	...	9,550	2,241	3	5,890
1886 . .	17,569	17	936	1,007	2,465	2,518	1,978	809	5.305	43	4,986	7	...	...	...	143	14,909	...	...	8,936	1,945	5	5,637
1887 . .	14,145	12	844	772	2,154	2,175	1,163	7	3,914	18	3,574	7	...	...	0	93	11,548	...	...	7,449	1,157	22	3,634

A. F. WOODBURN,
On Special Duty.

APPENDIX D.

Form No. 8.

Statement showing the result of proceedings in the execution of Decrees in Suits falling under Chapter II and of agreements filed under Section 44 of Act XVII of 1879 and of Decrees in Redemption Suits both under Chapter II and not under Chapter II in the Subordinate Courts in the Districts of Poona, Satara, Ahmednagar and Sholapur from 1884 to 1887.

Year.	Total number of Applications for the execution of Decrees before the Courts.	Total amount of the claim decreed.	Applications disposed of.				Pending at the end of the year.	Number of Applications pending more than three months at the close of the year.	Amount realized.			Number of applications.											
			Satisfaction obtained in full.	Satisfaction obtained in part.	Wholly unfructuous or otherwise disposed of.	Total disposed of.			With the issue of process.	Without the issue of process.	Amount admitted by the decree-holder as paid by the Judgment-debtor on account of Instalments.	On which the Judgment-debtor was imprisoned.	On which he was arrested but released without imprisonment.	On which moveable property: Was sold.	On which moveable property: Was attached but subsequently released.	On which immoveable property: Was sold.	On which immoveable property: Was dealt with under Section 305, 322 or 326, Act XIV of 1882.	On which immoveable property: Was attached but subsequently released under section 275.	On which possession was given: Of Moveables.	On which possession was given: Of Immoveables.	On which specific performance was enforced.	On which partition was effected.	On which execution was effected otherwise than the preceding columns.
		R							R	R	R												
1884 . .	17,775	Not stated	2,827	2,780	8,670	14,277	3,598	967	76,648	23,386	Not stated	26	77	96	107	149	16	77	3	835	2	2	6,080
1885 . .	22,742	...	3,178	3,950	10,956	18,084	4,658	1,159	1,18,934	36,503	...	52	132	140	154	179	17	117	6	892	2	7	7,612
1886 . .	27,491	14,92,120	3,692	4,881	13,755	22,328	5,163	1,254	1,62,251	35,879	1,63,088	29	210	185	196	209	42	193	11	707	...	5	10,682
1887 . .	31,139	15,33,270	4,035	5,021	16,308	25,364	5,775	1,491	1,89,760	40,621	2,33,604	46	196	280	272	310	57	182	26	704	28	7	13,667

A. F. WOODBURN,
On Special Duty.

No. 24.

APPENDX E.

Form No. 1.

Debts of persons other than occupants of land and Income Tax payers.

District.	Number of villages in which enquiries were made.	Total amount of debt of families, excluding income tax payers and occupants of or sub-sharers in land.	Average number of inhabitants per village throughout the District.	Total number of inhabitants in villages entered in column 2 at the average number per village shown in Column 3.	Amount of debt (Column 2) for every 100 inhabitants (Column 4).	Remarks.
	1	2	3	4	5	
		R a. p.			R	
Poona	129	10,76,959 4 0	610	78,690	1,368	
Satara	90	7,63,786 8 0	711	63,990	1,193	
Ahmednagar	85	7,10,438 8 0	513	43,605	1,629	
Sholapur	42	5,12,323 0 0	669	28,098	1,823	
Khandesh	85	14,03,811 6 0	358	30,430	4,613	
Nasik	144	25,86,647 3 11	472	67,968	3,805	
Thana	82	22,05,044 2 0	383	31,406	7,021	
Ratnagiri	62	12,72,161 0 0	802	49,724	2,558	
Bijapur	59	4,52,031 0 0	486	28,674	1,576	

A. F. WOODBURN,

On Special Duty.

No. 26.

FORM No. 1A.

Proportion of Population not in debt belonging to different castes.

1	2	3	4	5	6	7	8
Poona . .	Brahmin. Gujar. Joshi. Lingayet. Marwari. Parbhu. Sonar. Wani.	Kunbi. Mali. Gurao. Dhangar. Wanjari.	Halwai. Kasar. Koshti. Khatik. Kumbhar. Lohar. Nhavi. Pardeshi. Parit. Sali. Sangar. Shimpi. Sutar. Teli. Vadar. Tambat. Tamboli.	Mussalman.	Bhoi. Koli. Ramosi. Thakar.	Bhamte. Chambhar. Kaikadi. Mhar. Mang. Dhor.	Others.
	14·9 per cent.	37·3 per cent.	15·8 per cent.	6·2 per cent.	6·2 per cent.	16·0 per cent.	3·2 per cent.
Satara . .	Wani. Brahmin. Sonar. Gujar. Jain.	Mali. Dhangar. Maratha. Gurao.	Lohar. Nhavi. Parit. Kumbhar. Sutar. Vadar. Koshti. Teli. Tamboli. Shimpi. Kasar.	Mussalman.	Ramosi. Koli.	Dhor. Mhar. Mang. Chambhar.	Others.
	13·0 per cent.	53·8 per cent.	12·9 per cent.	4·7 per cent.	3·2 per cent.	10·1 per cent.	1·9 per cent.
Ahmednagar .	Brahmin. Lingayet Wani. Marwari. Sonar. Gujar. Wani.	Kunbi. Mali. Dhangar. Gurao. Wanjari.	Nhavi. Shimpi. Pardeshi. Kumbhar. Parit. Lohar. Kasar. Sutar. Koshti. Teli. Sali. Wadar. Tambat. Tamboli.	Mussalman.	Bhil. Ramosi. Koli. Thakur. Bhoi.	Chambhar. Mhar. Mang. Kaikadi Dhor.	Others.
	11·6 per cent	42·2 per cent.	13·2 per cent.	8·0 per cent.	4·2 per cent.	16·4 per cent.	4·0 per cent.
Sholapur . .	Wani. Jain. Brahmins. Joshi. Goldsmith. Marwari.	Maratha. Gurao. Mali. Dhangar.	Washerman. Barber. Teli. Carpenter. Vadar. Kasar. Blacksmith. Potter. Weaver. Tailor. Sali.	Mussalman.	Koli. Ramosi. Bhoi.	Mhar. Mang. Chambhar. Dhor.	Others.
	15·9 per cent.	35·7 per cent.	11·6 per cent.	6·7 per cent.	1·5 per cent.	17·1 per cent.	11·2 per cent.
Khandesh . .	Brahmin. Marwari. Sonar. Wani. Gujar.	Mali. Kunbi. Dhangar. Wanjari. Gurao. Rajput.	Barber. Kasar. Khatik. Kumbhar. Teli. Sutar. Pardeshi. Shimpi. Sali. Lohar. Dhobi. Rangari. Koshti. Pinjari.	Mussalman.	Bhil. Pardhi. Bhoi. Koli. Thakur.	Mhar. Chambhar. Mang. Dhor. Bhamte.	Others.
	7·1 per cent.	28·7 per cent.	10·2 per cent.	7·6 per cent.	25·9 per cent.	11·9 per cent.	8·3 per cent.

FORM No. 1A.—*continued.*

1	2	3	4	5	6	7	8
Nasik . .	Brahmin. Prabhu. Lingayet. Sonar. Ladshake. Marwari. Gujarathi. 9·4 per cent.	Kunbi. Mali. Wanjari. Dhangar. 27·2 per cent.	Teli. Nhavi. Tamboli. Shimpi. Sutar. Kasar. Parit. Kumbhar. Koshti. Sali. Momin. Lohar. Pardeshi. 10·7 per cent.	Mussalman. 5·8 per cent.	Koli. Warli. Bhil. Thakur. Ramosi. 27·2 per cent.	Mhar. Mang. Chambhar. 14.1 per cent.	Others. 5·5 per cent.
Thana . .	Brahmin. Palse. Shenvi. Parsi. Parbhu. Sonar. Pachkalse. Marwari. Christian. Israel. Gôd Brahmin. Gujarathi. 28·8 per cent	Kunbi. Bhandari. Mali. 26·6 per cent	Shimpi. Pardeshi. Nhavi. Kumbhar. Teli. Kasar. Parit. Sutar. Lohar. Tamboli. Khatik. 9·0 per cent.	Mussalman. 7.2 per cent.	Koli. Katodi. Warli. Thakur. Duble. Agri. Bhoi. 14·6 per cent.	Mhar. Chambhar. Mang. Kamathi. 3·0 per cent.	Others. 10·5 per cent.
Ratnagiri . .	Brahmin. Gaud Brahmin. Wani. Sonar. Gujar. Jain. Parbhu. Marwari. 26·3 per cent.	Gurao. Gaoda. Maratha. Bhandari. Dhangar. Kunbi. Kulwadi. Mali. 45·3 per cent.	Tamboli. Teli. Sutar. Hajam. Parit. Kumbhar. Kasar. Shimpi. Koshti. Tambat. Lohar. Sali. 6·2 per cent.	Mussalman. 10·6 per cent.	Thakor. Gabit. Koli. Bhoi. 3·9 per cent.	Mhar. Chambhar. 3·6 per cent.	Others. 3·8 per cent.
Bijapur . .	Brahmin. Marwari. Mudliar. Lingayet. Jain. 36·03 per cent.	Bedar. Hanabar. Hager. Kshatriya. Kurabar. Maratha. Reddi. Rajput. Lamani. Handi Vazir Gol. 21·7 per cent.	Agarwala. Jingar. Kalal. Panchal. Patwegar. Shimpi. Gondhali. Hatkar. Parit. Weaver. Tamboli. 8·3 per cent.	Mussalman. 15·0 per cent.	Kabbalager. Kornis. Vadar. 7·3 per cent.	Holia. Madagsar Mang. Dhor. Samagar. 8·1 per cent.	Others. 3·0 per cent.

A. F. WOODBURN,
On Special Duty.

APPENDIX E.—Form No. 2.

Statement showing the number of Occupants and the amount of their Debts, etc., in certaiu Villiges of nine Districts.

District.	Enquiring Officers.	Total number of occupants.	Total area of the holdings of the occupants entered in column 1.	Total assessment of the holdings of the occupants entered in column 1.	Value of holdings entered in columns 2 and 3 at 15 times the assessment.	Value of other property belonging to occupants entered in column 1 besides land (excluding cash and ornaments).	Total of columns 4 and 5.	Amount of Debt of Occupants entered in column 1.			Particulars of Land Mortgaged for Debt.		Number of villages in which enquiries made.	Remarks.
								Secured by mortgage of land.	Not Secured by mortgage of land.	Total of columns 7 and 8.	Area.	Assessment.		
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
			R a. p.	R a. p.	R a. p.	R a. p.	R a. p.	R a. p.	R a. p.	R a. p.	R. a. p.	R a. p.		
Poona* . .	Mamlatdars, Sub Registrars, and Village Registrars . .	17,603	343,634 35 8	2,19,005 2 3	32,75,074 1 9	36,40,214 11 0	69,15,288 12 9	17,70,625 6 0	12,43,459 14 3	30,14,085 4 3	67,143 15 0	48,301 0 9	81	*Returns for two talukas. Haveli and Maval not included as they were imperfect. Details of villages examined by different classes of officers not given Collector's Return.
Satara . .	Mamlatdars . .	3,610	53,430 23 0	63,952 10 6	9,59,334 11 0	6,47,113 7 7	16,06,448 2 7	4,80,572 10 0	3,04,476 8 0	7,85,049 2 0	9,104 2 0	14,235 9 8	28	
	Sub-Registrar and Village Registrars.	7,751	153,922 9 0	1,72,221 0 6	25,84,315 7 6	17,58,331 7 0	43,41,646 14 0	12,70,909 11 0	6,79,005 7 11	19,49,915 2 11	47,177 3 0	54,155 6 5	62	
	Total .	11,361	207,353 2 0	2,36,173 11 0	35,42,650 2 6	4,05,444 14 7	59,48,095 1 1	17,51,4825 0	9,83,481 15 11	27,34,964 4 11	56,281 5 0	68,391 0 1	90	
Ahmednagar .	Mamlatdars . .	4,077	100,619 1 4	71,915 9 9	10,78,734 2 3	6,73,230 0 0	17,51,964 2 3	1,45,922 8 0	2,68,306 14 0	4,14,229 6 0	10,057 33 12	8,078 13 7¾	35	
	Sub-Registrars . .	1,751	60,582 27 3	35,767 1 9	5,36,506 10 3	5,39,483 8 0	10,75,995 2 3	97,693 0 0	1,82,403 8 0	2,80,096 8 0	6,628 23 0	4,696 6 0	11	
	Village Registrars .	5,385	155,182 4 0	90,568 14 5½	13,58,533 8 10½	11,51,805 8 0	25,10,339 0 10½	2,51,347 6 3	5,50,182 0 5	8,01,529 6 8	18,254 5 12	13,097 8 8½	39	
	Special Mamlatdars .	1,418	55,545 7 0	27,627 1 7	4,14,316 7 9	4,01,337 0 0	8,15,653 7 9	72,023 8 0	1,12,834 0 0	1,84,457 10 0	7,398 4 8	3,857 0 7	12	
	Total .	12,631	371,928 39 7	2,25,878 11 6½	33,88,090 13 1½	27,65,861 0 0	61,53,951 13 1½	5,66,986 6 3	11,13,326 8 5	16,80,312 14 8	42,338 27 0	29,729 12 11¼	97	
Sholapur. .	Mamlatdars . .	1,219	44,120 36 0	19,255 10 9	2,88,835 1 3	2,13,662 0 0	5,02,497 1 3	43,664 12 0	53,209 8 0	96,872 4 0	6,164 12 0	2,826 8 5	14	
	Sub-Registrars . .	1,028	44,467 20 0	19,757 12 8	2,96,366 14 0	2,75,726 1 9	5,72,092 15 9	78,876 0 0	95,353 0 0	1,74,129 0 0	9,339 28 0	4,617 10 5	7	
	Village Registrars .	3,627	137,284 27 0	63,856 12 6	9,57,851 11 6	8,73,246 6 0	18,31,098 1 6	1,80,599 10 3	3,05,310 2 0	4,85,909 12 3	16,858 20 0	8,545 6 7	21	
	Total .	5,874	225,873 3 0	1,02,870 3 11	15,43,053 10 9	13,62,634 7 9	29,05,688 2 6	3,03,140 6 3	4,53,872 10 0	7,57,018 0 3	32,362 20 0	15,989 4 5	42	

Statement showing the number of Occupants and the amount of their Debts, etc., in certain Villages of nine Districts—contd.

District.	Enquiring Officers.	Total number of occupants.	Total area of the holdings of the occupants entered in column 1.	Total assessment of the holdings of the occupants entered in column 1.	Value of holdings entered in columns 2 and 3 at 15 times the assessment.	Value of other property belonging to occupants entered in column 1 besides land (excluding cash and ornaments).	Total of columns 4 and 5.	Amount of Debt of Occupants entered in column 1: Secured by mortgage of land.	Not secured by mortgage of land.	Total of columns 7 and 8	Particulars of Land Mortgaged for Debt.: Area.	Assessment.	Number of villages in which enquiries made.	Remarks.
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
			R a. p.	R a. p.	R a. p.	R a. p.	R a. p.	R a. p.	R a. p.	R a. p.	R a. p.	R a. p.		
Khandesh	Mamlatdars	5,248	116,356 1 0	1,42,971 1 7	21,44,566 7 9	21,31,639 12 0	42,76,206 3 9	5,41,105 4 0	15,44,377 14 5	20,85,483 2 5	21,180 7 0	26,021 13 0	81	One taluka, Chalisgaon excluded as the returns incomplete.
	Sub-Registrars	1,100	25,446 9 0	31,539 11 0	4,79,095 5 0	4,79,096 8 0	9,52,191 13 0	1,36,036 0 0	3,34,962 10 9	4,70,998 10 9	5,144 10 0	6,092 8 11	17	
	Total	6,348	141,802 10 0	1,74,510 12 7	26,17,661 12 9	26,10,736 4 0	52,28,398 0 9	6,77,141 4 0	18,79,340 9 2	25,56,481 13 2	26,324 17 0	32,114 5 11	98	
Nasik	Mamlatdars	11,337	381,842 39 8	3,65,726 10 7	54,85,899 14 9	52,44,956 11 6	1,07,30,856 10 3	14,85,675 14 9	31,91,905 9 11	46,77,581 8 8	67,025 8 4	75,338 0 7	144	
	1st Assistant Collector, Mr. Doderet	85	2,998 3 0	2,649 7 0	39,741 9 0	33,376 8 0	73,118 1 0	350 0 0	17,774 0 0	18,124 0 0	25 2 0	22 6 0	1	
	Total	11,422	384,841 2 8	3,68,376 1 7	55,25,641 7 9	52,78,333 3 6	1,08,03,974 11 3	14,86,025 14 9	32,09,679 9 11	46,95,705 8 8	67,050 10 4	75,360 6 7	145	
Thana	Mamlatdars	4,889	57,556 20 0	66,374 11 0	9,95,620 5 0	15,89,449 14 0	25,85,070 3 0	4,77,987 15 0	4,69,370 1 0	9,47,358 0 0	7,234 23 8	12,986 13 10	66	
	Sub-Registrars	2,368	14,880 21 8	35,398 14 0	5,30,983 2 0	17,40,157 3 9	22,71,140 5 9	4,58,919 14 6	3,73,255 8 0	8,32,175 6 6	3,283 23 1½	8,854 5 10	16	
	Total	7,527	72,437 1 8	1,01,773 9 0	15,26,603 7 0	31,29,607 1 9	48,56,210 8 9	9,36,907 13 6	8,42,625 9 0	17,79,533 6 6	10,518 6 9½	21,841 3 8	82	
Ratnagiri	Mamlatdars	8,741	107,925 4 12	69,311 0 0	10,93,923 6 0	8,12,643 14 8	19,06,567 4 8	6,69,857 8 0	5,43,845 3 1	12,13,702 11 1	22,511 34 0	54,972 1 4	49	
	Sub-Registrars	3,214	12,956 33 12	21,596 3 2½	3,23,943 1 0½	10,13,638 1 4	13,37,581 2 4½	3,90,342 13 5	3,36,444 0 0	7,26,786 13 5	3,478 2 8	6,302 14 0	10	
	Total	11,955	120,881 38 8	90,907 3 2½	14,17,866 7 0½	18,26,282 0 0	32,44,148 7 0½	10,60,200 5 5	8,80,289 3 1	19,40,489 8 6	25,989 36 8	61,274 15 4	59	
Bijapur	Mamlatdars	622	22,055 26 0	12,743 4 0	1,91,148 12 0	1,33,763 0 0	3,24,851 12 0	12,380 0 0	48,231 0 0	60,611 0 0	1,216 21 0	791 10 4	9	
	Sub-Registrars	1,956	61,785 37 0	42,795 10 0	6,41,934 6 0	7,70,098 8 0	14,12,024 14 0	71,105 0 0	1,78,784 0 0	2,49,889 0 0	4,802 6 0	3,394 14 4	8	
	Circle Inspectors	4,119	162,290 22 0	92,597 8 0	13,88,962 8 0	10,88,011 8 0	24,76,974 0 0	95,820 8 0	4,26,367 0 0	5,22,187 8 0	10,677 8 4	7,287 9 4	38	
	District Inspector	47	2,182 31 0	1,321 12 0	19,826 4 0	20,132 0 0	39,958 4 0	1,486 0 0	3,102 8 0	4,588 8 0	265 35 0	185 14 0	1	
	†Mr. W. S. Price.	108	2,148 5 0	1,176 4 0	17,643 12 0	21,746 0 0	39,389 12 0	80 0 0	3,836 0 0	3,916 0 0	13 23 0	10 4 11	1	† Assistant Superintendent, Revenue Survey. On special duty in Department of Land Records and Agriculture.
	Assistant District Inspector.	71	2,125 10 0	787 0 0	11,805 0 0	8,594 0 0	20,399 0 0	1,200 0 0	4,683 0 0	5,883 0 0	27 6 0	14 0 0	1	
	Total	6,923	252,588 11 0	1,51,421 6 0	22,71,320 10 0	20,42,277 0 0	43,13,597 10 0	1,82,071 8 0	6,65,003 8 0	8,47,075 0 0	17,002 19 4	11,684 4 11	58	

A. F. WOODBURN,
On Special Duty.

ABSTRACT FROM FORM No. 2.

District.	Enquiring Officers.	Assets (Column 6, Form 2) in multiples of liabilities (Column 9, Form 2).	Total debts in multiples of assessment of land held.	Ratio of mortgaged debt to debt not secured by mortgage.	Average assessment per acre of land held.	Debt secured by mortgage in multiples of assessment of land mortgage.	Interest at 9 per cent. on debt secured by m otgage	Interest at 24 per cent. on debt not secured by mortgage.	Total interest on debt.	Amount of interest on debt for every R100 of assessment paid.	Land Mortgaged.	
											Per cent. of total area.	Per cent. of total assessment.
1	2	3	4	5	6	7	8	9	10	11	12	13
							R	R	R	R		
Poona	Mamledars, Sub-Registrars and Village Registrars.	2·2	13·7	1 to ·70	·63	36·6	1,59,356	2,98,430	4,57,786	209	19·5	22·0
	Total	2·2	13·7	1 to ·70	·63	36·6	1,59,356	2,98,430	4,57,786	209	19·5	22·0
Satara	Mamledars	2·4	12·2	1 to ·63	1·1	33·7	43,251	73,074	1,16,325	181	17·0	22·2
	Sub-Registrars	2·2	11·3	1 to ·53	1·1	23·4	1,14,381	1,62,961	2,77,342	161	30·6	31·4
	Total	2·1	11·5	1 to ·56	1·1	25·6	1,57,633	2,36,035	3,93,668	166	27·1	28·9
Ahmednagar	Mamledars	4·2	5·7	1 to 1·83	·71	18·0	13,132	64,393	77,525	107	9·9	11·2
	Sub-Registrars	3·8	7·8	1 to ·86	·59	20·8	8,792	43,776	52,568	146	10·9	13·1
	Village Registrars	3·1	8·8	1 to 2·18	·58	19·1	22,621	1,32,043	1,54,664	170	11·7	3·4
	Special Mamledars	4·4	6·6	1 to 1·56	·49	18·6	6,482	26,984	33,466	121	13·3	13·9
	Total	3·6	7·4	1 to 1·96	·60	19·0	51,028	2,67,198	3,18,226	140	11·3	13·1
Sholapur	Mamledars	5·1	5·03	1 to 1·21	·43	15·4	3,929	12,770	16,699	86	13·9	14·6
	Sub-Registrars	3·2	8·8	1 to 1·20	·44	17·0	7,098	22,884	29,982	151	21·0	23·3
	Village Registrars	3·7	7·6	1 to 1·69	·46	21·1	16,253	73,274	89,527	140	12·2	13·3
	Total	3·8	7·3	1 to 1·49	·45	18·9	27,282	1,08,929	1,36,211	13	14·3	15·5
Khandesh	Mamledars	2·0	14·5	1 to 2·85	1·2	20·7	48,699	3,70,650	4,19,349	293	18·2	18·2
	Sub-Registrars	2·0	14·9	1 to 3·19	1·2	22·3	12,243	80,390	92,633	293	20·2	19·3
	Total	2·0	14·6	1 to 2·41	1·2	24·1	60,942	4,51,041	5,11,983	293	18·5	18·4
Nasik	Mamledars and Sub-Registrars.	2·2	12·7	1 to 2·14	1·2	19·7	1,33,710	7,66,057	8,99,767	246	17·5	20·5
	Mr. Doderet, 1st Assistant Collector.	4·0	6·8	1 to 50·78	·88	15·9	31	4,265	4,296	162	0·8	0·8
	Total	2·3	12·7	1 to 2·15	·95	19·7	1,33,742	7,70,322	9,04,064	245	17·4	20·4
Thana	Mamledars	2·7	14·27	1 to ·98	1·15	36·8	43,018	1,12,648	1,55,666	234	12·5	18·0
	Sub-Registrars	2·7	23·5	1 to ·81	2·37	51·8	41,302	89,581	1,30,883	369	22·0	25·0
	Total	2·7	17·4	1 to ·89	1·40	42·8	84,321	2,02,230	2,86,551	281	14·5	21·4
Ratnagiri	Mamledars	1·5	17·5	1 to ·81	·6	12·1	60,287	1,30,522	1,90,809	275	20·8	79·3
	Sub-Registrars	1·8	33·6	1 to ·35	1·6	61·9	35,130	80,746	1,15,876	536	26·8	29·1
	Total	1·6	21·3	1 to ·83	·7	17·3	95,418	2,11,269	3,06,687	337	21·4	67·4
Bijapur	Mamledars	5·3	4·7	1 to 3·89	·57	15·6	1,114	11,575	12,689	99	5·5	6·2
	Sub-Registrars	5·6	5·8	1 to 2·51	·69	20·9	6,399	42,908	49,307	115	7·7	7·9
	Circle Inspectors	4·7	5·6	1 to 4·44	·57	13·1	8,623	1,02,328	1,10,951	119	6·5	7·8
	District Inspector. *Mr. W. S Price, Assistant District Inspector.	6·9	4·3	1 to 4·20	·50	13·1	248	2,789	3,037	92	4·7	6·3
	Total	5·0	5·5	1 to 3·6	·59	15·5	16,386	1,59,600	1,75,986	116	6·7	7·7

* Assistant Superintendent, Revenue Survey, on special duty in Department of Land Records and Agriculture.

A. F. WOODBURN,
On Special Duty.

APPENDIX E.—Form No. 3.

Statement showing the amount of Debt of Occupants in certain Villages of the Nine Districts.

District.	Enquiring officers.	Occupants who are not in debt.		Occupants whose debts amount to												Total of columns 1, 3, 5, 7, 9, 11, 13.	Total of columns 2, 4, 6, 8, 10, 12, 14.
				Not more than 5 times the assessment of their holdings.		More than 5 times but not more than 10 times the assessment.		More than 10 times but not more than 15 times the assessment.		More than 15 times but not more than 20 times the assessment.		More than 20 times but not more than 25 times the assessment.		More than 25 times the assessment.			
		Number of occupants.	Assessment of holding.	Number of occupants.	Assessment of holdings.	Number of occupants.	Assessment of holdings.	Number of occupants.	Assessment of holdings.	Number of occupants.	Assessment of holdings.	Number of occupants.	Assessment of holdings.	Number of occupants.	Assessment of holdings.		
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
			R a. p.		*R a. p.*		*R a. p.*		*R a. p.*		*R a. p.*		*R a. p.*		*R a. p.*		*R a. p.*
Poona	Mamledars . .	6,046	77,369 9 11	2,030	42,886 8 3	1,767	28,888 9 2	1,187	17,396 9 5	997	11,470 12 4	772	7,344 15 8	!4,804	33,654 1 6	17,603	2,19,005 2 3
Satara . . .	Mamledars . .	1,442	20,098 12 7	364	11,398 12 3	404	9,299 3 4	302	7,210 12 8	195	3,936 14 10	166	3,566 12 11	737	8,441 5 11	3,610	63,952 10 6
	Sub-Registrars . .	2,644	46,003 3 5	1,074	33,292 4 3	1,005	31,668 8 6	762	19,735 13 2	505	11,961 0 11	398	8,539 5 6	1,363	21,020 12 9	7,751	1,72,221 0 6
	Village Registrars .	...	......	...	......	...	......	...	......	...	......	...	......	...	......	...	......
	Total .	4,086	66,102 0 0	1,438	44,691 0 6	1,409	40,967 11 10	1,064	26,946 9 10	700	15,897 15 9	564	12,106 2 5	2,100	29,462 2 8	11,361	2,36,173 11 0
Ahmednagar . .	Mamledars . .	2,070	31,568 0 10½	699	18,163 0 7	425	9,907 4 1	237	4,528 0 7½	159	2,580 11 7½	112	1,658 5 6	375	3,510 2 6	4, 077	71,915 9 9
	Sub Registrars . .	702	13,362 0 3	360	*10,932 0 7	191	4,048 14 8	131	2,493 5 10	77	1,336 9 8	87	1,025 11 4	203	2,568 7 5	1,751	35,767 1 9
	Village Registrars .	2,238	35,353 14 3	967	24,243 5 10	630	11,514 10 9½	388	6,603 1 3	283	3,839 13 5	215	2,711 0 6	664	6,303 0 5	5,385	90,568 14 5½
	Special Mamledars .	655	11,166 0 6	263	6,964 9 10	192	4,768 0 8	86	1,872 14 11	51	694 0 2	45	808 10 9	126	1,346 12 9	1,418	27,621 1 7
	Total .	5,665	91,449 15 10½	2,289	60,303 0 10	1,438	30,238 14 2½	842	15,497 6 7½	570	8,451 2 10½	459	6,203 12 1	1,368	13,728 7 1	12,631	2,25,872 11 6½
Sholapur . . .	Mamledars . .	526	8,503 10 10	276	5,280 7 10	141	2,319 15 6	68	1,174 8 10	63	741 9 1	37	432 6 0	108	803 0 8	1,219	19,255 10 9
	Sub-Registrars . .	348	5,485 8 4	215	5,764 12 10	179	3,754 1 0	78	1,573 4 3	52	709 13 2	42	497 3 0	114	1,973 2 1	1,028	19,757 12 8
	Village Registrars .	1,599	24,413 13 9	776	17,182 2 11	474	9,330 8 4	265	4,972 2 10	130	1,816 2 7	87	1,410 11 6	296	4,731 2 7	3,627	63,856 12 6
	Total .	2,473	38,403 0 11	1,267	28,227 7 7	794	15,404 8 10	411	7,719 15 11	245	3,267 8 10	166	2,340 4 6	518	7,507 5 4	5,874	1,02,870 3 11

KHANDESH	Mamledars	1,257	36,476 15 3	698	27,053 6 4	698	21,690 0 2	544	16,213 4 0	391	10,721 5 6	332	8,[illegible]36 1 11	1,328	22,580 0 5	5,248	1,42,971 1 7
	Sub-Registrars	214	6,589 11 4	139	5,909 7 8	159	5,404 2 2	137	4,403 11 4	78	2,039 1 0	60	1,648 13 0	813	5,544 12 6	1,100	31,539 11 0
	Total	1,471	43,066 10 7	837	32,962 14 0	857	27,094 2 4	681	20,616 15 4	469	12,760 6 6	392	9,884 14 11	1,641	28,124 12 11	6,348	1,74,510 12 7
NASIK	Mamledars	3,043	103,899 12 7	1,621	73,953 3 1	1,560	58,954 4 4	1,079	35,972 12 7	825	25,302 11 3	614	17,810 2 1	2,595	49,833 12 8	11,337	3,65,726 10 7
	Sub-Registrars	...	......	...	......	...	......	...	......	...	......	...	......	...	......	...	......
	1st Assistant Collector	27	797 8 0	19	805 7 0	17	631 4 0	7	201 10 0	2	23 0 0	3	65 4 0	10	125 6 0	85	2,649 7 0
	Total	3,070	104,697 4 7	1,640	74,758 10 1	1,577	59,585 8 4	1,086	36,174 6 7	827	25,325 11 3	617	17,875 6 1	2,605	49,959 2 8	11,422	3,68,376 1 7
THANA	Mamledar	2,297	31,752 15 4	468	9,371 1 5	370	6,445 5 4	311	5,195 2 11	229	3,033 12 5	232	2,490 13 7	1,096	8,085 8 0	5,003	66,374 11 0
	Sub-Registrars	1,323	19,477 10 7½	46	1,144 4 11	105	2,206 5 4	123	1,885 6 10	129	2,010 7 8	109	1,566 1 9	865	7,108 8 0½	2,700	35,398 13 2
	Total	3,620	51,230 9 11½	514	10,515 6 4	475	8,651 10 8	434	7,080 9 9	358	5,044 4 1	341	4,056 15 4	1,961	15,194 0 0½	7,703	1,01,773 8 2
RATNAGIRI	Mamledars	2,505	24,962 3 0	636	9,984 1 9	706	6,952 0 3	498	4,404 4 5	458	4,454 10 4	404	3,060 7 11	3,264	15,493 4 4	8,471	69,311 0 0
	Sub-Registrars	1,557	9,721 14 0	68	1,000 11 9	82	1,177 3 6	61	734 13 0	67	766 5 9	66	771 6 1	1,313	7,423 12 6½	3,214	21,596 2 7½
	Total	4,062	34,684 1 0	704	10,984 13 6	788	8,129 3 9	559	5,139 1 5	525	5,221 0 1	470	3,831 14 0	4,577	22,917 0 10½	11,685	90,907 2 7½
BIJAPUR	Mamledars	349	6,223 8 0	128	3,538 0 0	61	1,361 6 0	23	735 14 0	17	360 4 0	13	251 4 0	31	273 0 0	622	12,743 4 0
	Sub-Registrars	1,093	21,813 10 0	272	9,995 6 0	193	4,952 10 0	111	2,196 0 0	82	1,556 6 0	45	542 0 0	160	1,734 10 0	1,956	42,795 10 0
	Circle Inspectors	2,347	45,403 10 0	670	22,662 13 0	469	12,402 14 0	213	4,311 10 0	117	2,936 0 0	71	1,096 1 0	232	3,694 8 0	4,119	92,597 8 0
	District Inspectors	20	524 0 0	14	406 7 0	6	230 14 0	4	132 7 0	1	10 0 0	...	......	2	18 0 0	47	1,321 12 0
	*Mr. W. S. Price	51	440 0 0	32	528 8 0	7	95 4 0	5	42 0 0	6	41 0 0	4	21 0 0	3	8 8 0	108	1,176 4 0
	Assistant District Inspector	51	370 6 0	9	186 2 0	5	47 4 0	1	10 0 0	2	11 0 0	...	......	3	162 4 0	71	787 0 0
	Total	3,911	74,870 2 0	1,125	37,317 4 0	741	19,000 4 0	357	7,427 15 0	225	4,914 10 0	123	1,910 5 0	431	5,890 14 0	6,923	1,51,421 6 0

* Assistant Superintendent, Revenue Survey, on Special Duty in Department of Land Records and Agriculture.

A. F. WOODBURN,
On Special Duty.

Abstract of Form No. 3.

District.	Occupants who are not in debt.		Occupants whose debts amount to not more than 10 times the assessment.		Occupants whose debts amount to more than 10 times the assessment but not more than 20 times the assessment.		Occupants whose debts amount to more than 20 times the assessment.	
	Per cent. of total number.	Per cent. of total assessment.	Per cent. of total number.	Per cent. of total assessment.	Per cent. of total number.	Per cent. of total assessment.	Per cent. of total number.	Per cent. of total assessment.
Poona	34·3	35·3	21·5	32·7	12·4	13·1	31·6	18·7
Satara	35·9	27·9	25·0	36·2	15·5	18·1	23·4	17·6
Ahmednagar	44·8	40·4	29·5	40·0	11·1	10·6	14·4	8·8
Sholapur	42·1	37·3	35·0	42·4	11·1	10·6	11·6	9·5
Khandesh	23·1	24·6	26·6	34·4	18·1	19·1	32·0	21·7
Nasik	26·8	28·4	28·1	36·4	16·7	16·6	28·2	18·4
Thana	46·9	50·3	12·8	18·8	10·2	11·9	29·8	18·9
Ratnagiri	34·7	38·1	12·7	21·0	9·2	11·3	43·1	28·3
Bijapur	56·4	49·4	26·9	37·2	8·4	8·1	8·1	5·1

A. F. WOODBURN,
On Special Duty.

No. 29.

APPENDIX E.

Form No. 4.

Statement containing information for 1876-77 and 1883-84 to 1887-88 regarding Occupants in certain Villages of nine Districts.

District.	Number of Villages.	Year.	Occupants who are not Sawkars. Number of occupants.	Area of occupancies.	Assessment of occupancies.	Occupants who are Sawkars. Number of occupants.	Area of occupancies.	Assessment of occupancies.	Remarks.
1	2	3	4	5	6	7	8	9	10
				A. g. a.	R a. p.		A. g. a.	R a. p.	
Poona	81	1876-77	11,360	336,968 29 0	1,97,805 0 0	1,014	41,873 24 12	31,593 5 11	
		1883-84	11,119	319,151 15 0	1,94,457 8 4	1,058	44,577 4 8	33,613 1 5	
		1884-85	11,144	326,548 31 12	2,04,574 6 9	1,044	43,847 38 0	66,532 7 0	
		1885-86	11,239	327,780 15 8	2,06,875 15 4	1,037	48,546 30 4	33,545 12 5	
		1886-87	11,321	340,692 22 4	2,09,180 9 8	1,050	42,299 15 4	33,808 13 1	
		1887-88	18,037	339,692 30 12	2,11,378 12 2	1,405	44,207 20 12	33,814 6 11	
Satara	28	1876-77	5,989	135,921 4 0	1,41,214 3 0	183	6,785 31 0	7,902 6 0	
		1883-84	6,016	137,455 26 0	1,40,602 7 0	223	8,812 37 0	9,172 14 0	
		1884-85	6,021	137,532 16 0	1,40,544 4 0	228	8,817 32 0	9,320 6 0	
		1885-86	6,032	137,542 26 0	1,40,370 10 0	234	8,874 39 0	9,439 8 0	
		1886-87	6,056	139,246 28 0	1,40,496 12 0	235	8,905 32 0	9,474 12 0	
		1887-88	6,060	139,072 38 0	1,40,289 6 0	247	9,142 16 0	9,659 6 0	
Ahmednagar	97	1876-77	11,563	431,539 3 0	2,41,510 4 2	952	63,253 4 8	38,903 2 3	
		1883-84	11,731	409,581 5 0	2,40,062 3 6	957	59,461 4 0	38,401 13 10	
		1884-85	12,050	427,847 6 0	2,56,290 15 5	968	61,998 9 0	42,394 10 10	
		1885-86	12,135	433,344 17 0	2,73,748 2 5	963	63,082 18 0	41,627 9 2	
		1886-87	12,324	443,618 39 0	2,82,630 15 3	973	63,916 4 4	43,101 10 0	
		1887-88	15,686	452,384 14 8	2,86,462 9 10	1,086	63,020 20 0	42,711 1 5	
Sholapur	14	1876-77	1,021	49,768 3 0	22,299 4 0	63	5,397 6 0	2,571 3 0	
		1883-84	961	45,699 13 0	20,607 4 6	44	4,019 13 0	1,888 3 0	
		1884-85	968	45,838 28 0	20,652 4 6	43	3,924 10 0	1,852 3 0	
		1885-86	969	45,846 38 0	20,620 5 6	45	4,225 1 0	2,015 4 0	
		1886-87	969	46,754 4 0	20,521 1 6	49	4,868 12 0	2,303 0 0	
		1887-88	993	48,477 24 0	21,196 5 6	52	5,032 22 0	2,361 2 0	
Khandesh	81	1876-77	5,741	127,238 30 0	1,59,544 15 1	256	9,787 24 0	13,928 10 0	
		1883-84	6,105	140,462 31 0	1,68,550 4 6	313	11,683 5 0	16,415 0 6	
		1884-85	6,152	140,594 16 0	1,68,147 8 5	320	12,393 1 0	17,233 11 6	
		1885-86	6,233	142,080 21 0	1,67,009 9 9	329	12,446 6 0	16,762 10 8	
		1886-87	6,382	144,634 24 0	1,73,489 7 4	341	13,624 0 0	18,777 5 8	
		1887-88	6,273	141,940 8 0	1,70,536 12 2	351	13,424 35 0	19,053 11 8	
Nasik	145	1876-77	12,363	383,499 20 8	3,64,684 12 4	578	24,668 9 0	32,730 11 11	
		1883-84	12,971	394,223 11 8	3,69,206 9 3	719	30,201 3 12	40,025 15 2	
		1884-85	13,053	400,731 1 4	3,72,573 6 5	723	30,699 30 4	41,289 3 4	
		1885-86	13,105	401,997 1 0	3,72,763 4 4	742	32,128 6 0	42,868 9 8	
		1886-87	13,397	405,030 26 0	3,75,553 5 3	753	33,065 11 12	44,124 13 11	
		1887-88	13,340	408,725 14 0	3,76,231 4 2	771	33,030 15 0	44,182 15 4	
Thana	66	1876-77	4,741	51,548 6 9	60,543 1 6	234	7,792 32 4	9,021 0 4	
		1883-84	4,588	48,531 21 8	57,937 12 4	288	12,209 11 0	12,024 10 10	
		1884-85	4,584	48,510 5 12	57,743 9 6	312	11,473 8 4	12,110 4 5	
		1885-86	4,549	47,796 5 4	57,188 10 4	322	12,141 23 4	12,228 8 0	
		1886-87	4,567	49,038 10 4	57,129 2 4	333	12,432 21 10	13,195 15 10	
		1887-88	4,593	49,849 5 0	57,573 1 5	337	12,142 25 0	12,898 5 11	
Ratnagiri	49	1876-77	4,324	48,395 30 12	45,115 7 6	153	6,743 6 12	6,305 2 2	
		1883-84	4,638	54,462 20 8	44,293 9 7	174	7,871 34 0	5,653 1 2	
		1884-85	4,600	53,523 22 12	36,768 9 1	157	7,819 5 12	6,160 12 11	
		1885-86	4,565	52,827 7 12	42,208 2 5	169	8,537 32 12	6,678 4 9	
		1886-87	4,609	53,350 6 0	44,263 1 0	176	7,953 5 4	6,812 11 11	
		1887-88	4,676	58,472 25 0	44,063 15 6	208	9,044 11 8	7,579 5 7	
Bijapur				Information	not received.				

A. F. WOODBURN,
On Special Duty.

Abstract of Form No. 4.—Proportions according to Village Rent Rolls of Area held and Assessment paid by.

District.	Year.	Occupants who are not Savkars.			Occupants who are Savkars.		
		Per cent. of Total Number of Occupants.	Per cent. of Total Area.	Per cent. of Total Assessment.	Per cent. of Total Number of Occupants.	Per cent. of Total Area.	Per cent. of Total Assessment.
Poona	1876-77	91·8	88·9	86·2	8·1	11·0	13·7
	1883-84	91·3	87·7	85·2	8·6	12·2	14·7
	1887-88	92·7	88·4	86·2	7·2	11·5	13·7
Satara	1876-77	97·3	95·2	94·7	2·9	4·7	5·2
	1883-84	96·4	93·9	93·8	3·5	6·2	6·1
	1887-88	96·0	93·8	93·5	3·9	6·1	6·4
Ahmednagar	1876-77	92·3	87·2	86·1	7·6	12·7	13·8
	1883-84	92·4	87·3	86·2	7·5	12·6	13·7
	1887-88	93·5	87·7	87·0	6·4	12·2	12·9
Sholapur	1876-77	94·1	90·2	89·6	5·8	9·7	10·3
	1883-84	93·8	91·9	91·6	6·1	8·0	8·3
	1887-88	95·0	90·5	89·9	4·9	9·4	10·0
Khandesh	1876-77	95·7	92·8	91·9	4·2	7·1	8·0
	1883-84	95·1	92·3	91·1	4·8	7·6	8·8
	1887-88	94·7	91·3	89·9	5·2	8·6	10·0
Nasik	1876-77	95·5	93·9	91·7	4·4	6·0	8·2
	1883-84	94·7	92·8	90·2	5·2	7·1	9·7
	1887-88	94·5	92·5	89·4	5·4	7·4	10·5
Thana	1876-77	95·2	86·8	87·0	4·7	13·1	12·9
	1883-84	94·4	79·8	82·8	5·9	20·1	17·1
	1887-88	93·1	80·4	81·6	6·8	19·5	18·3
Ratnagiri	1876-77	96·5	87·7	87·7	3·4	12·2	12·2
	1883-84	96·3	87·3	88·6	3·6	12·6	11·3
	1887-88	95·7	86·6	85·3	4·2	13·3	14·6

A. F. WOODBURN,
On Special Duty.

Abstract of Form No. 4.

District	Proportion paid by Sawkars of total assessment.			Per cent. increase or decrease.			
				In 1883-84 compared with 1876-77.		In 1887-88 compared with 1883-84.	
	1876-77.	1883-84.	1887-88.	Increase.	Decrease.	Increase.	Decrease.
	R	R	R	R	R	R	R
Poona	13·7	14·7	13·7	7·3	...	...	6·7
Satara	5·2	6·1	6·4	17·3	...	4·9	...
Ahmednagar	13·8	13·7	12·9	...	·7	...	5·8
Sholapur	10·3	8·3	10·0	...	19·4	20·4	...
Khandesh	8·0	8·8	10·0	10	...	13·6	...
Nasik	8·2	9·7	10·5	18·2	...	8·2	...
Thana	12·9	17·1	18·3	32·5	...	7·0	...
Ratnagiri	12·2	11·3	14·6	...	7·3	29·2	...

A. F. WOODBURN,
On Special Duty.

No. 30.

APPENDIX E.—Form No. 5.

Statement containing information for one year 1887-88 regarding Occupants in certain villages of nine Districts.

District.	Villages.	Occupants (other than Sawkars) whose names are entered in Village Form No. 6 as occupants, but whose holdings have passed into the possession of Sawkars by sale, mortgage, etc. 1			Occupants who are Sawkars. 2			Remaining occupants after deducting those entered in columns 1 and 2. 3		
		Number of occupants.	Area.	Assessment.	Number of occupants.	Area.	Assessment.	Number of occupants.	Area.	Assessment.
			A. g. a.	*R a. p.*		*A. g. a.*	*R a. p.*		*A. g. a.*	*R a. p.*
Poona	81	4,986	51,689 35 12	34,551 9 3	1,405	44,207 20 12	33,814 6 11	14,285	287,999 36 8	1,77,069 3 4
Satara	28	1,588	17,015 15 0	22,259 1 5	247	9,142 16 0	9,659 6 0	5,155	117,058 25 0	1,06,961 4 11
Ahmednagar	97	2,618	53,801 36 8	36,585 6 8	1,696	62,234 25 0	42,407 1 5	13,815	399,368 16 0	2,50,181 3 1½
Sholapur	14	168	5,325 37 0	2,579 0 2	52	5,076 31 0	12,361 2 0	1,130	42,938 30 0	19,040 3 4
Khandesh	81	748	12,686 31 10	16,008 5 7	351	13,424 35 0	19,053 11 8	5,704	129,253 16 6	154,528 6 7
Nasik	145	2,265	48,104 35 12	54,230 10 2	771	33,030 15 0	44,182 15 4	11,689	360,620 18 4	3,22,000 10 0
Thana	66	1,317	7,185 1 8	13,072 8 3	334	12,136 16 12	12,839 10 11	3,515	42,713 24 4	44,557 11 1
Ratnagiri	49	788	11,008 25 8	8,183 4 2	208	9,043 31 8	7,579 0 6	4,182	47,464 12 12	35,887 0 6
Bijapur				Information	not received.					

Abstract of Form No. 5—Proportions of Land held and assessment paid by Sawkars and others than Sawkars in 1887-88.

District.	Held by Sawkars. In their own names.		Held by Sawkars. Not in their own names.		Held by Sawkars. Total.		Held by others than Sawkars.	
	Per cent. of total area.	Per cent. of total assessment.	Per cent. of total area.	Per cent. of total assessment.	Per cent. of total area.	Per cent. of total assessment.	Per cent. of total area.	Per cent. of total assessment.
Poona	11·5	13·7	13·4	14·0	24·9	27·7	75·0	72·1
Satara	6·3	6·9	11·8	16·0	18·1	22·9	81·7	77·0
Ahmednagar	12·0	12·8	10·4	11·1	22·4	23·9	77·4	76·0
Sholapur	9·5	9·8	9·9	10·7	19·4	20·5	80·5	79·3
Khandesh	8·6	10·0	8·1	8·4	16·7	18·4	83·1	81·5
Nasik	7·5	10·5	10·9	12·8	18·4	23·3	81·6	76·5
Thana	19·5	18·2	11·5	18·5	31	36·7	68·8	63·2
Ratnagiri	13·3	14·6	16·3	15·8	29·6	30·4	70·3	69·4

A. F. WOODBURN,
On Special Duty.

APPENDIX E.—FORM No. 6.

No. 31.

Statement showing the number of Occupancies held by persons of the money-lending castes in certain villages of the nine Districts in the years 1854-55, 1864-65, 1874-75, and 1887-88.

District.	Number of Villages.	Years.	Occupancies held by persons of the money-lending caste.						
			Number of Occupancies.	Area.			Assessment.		
				A.	g.	a.	R.	a.	p.
Poona	...	1854-55	280	10,753	37	4	* 9,594	5	10
		1864-65	528	16,640	3	12	13,971	6	11
		1874-75	695	29,211	23	0	23,870	14	4
		1887-88	915	35,231	29	4	24,489	10	0
Satara	...	1854-55	77	1,540	13	0	1,589	0	11
		1864-65	111	3,298	15	0	3,567	13	0
		1874-75	122	3,908	29	0	3,796	8	0
		1887-88	126	3,055	37	0	3,561	3	0
Ahmednagar	...	1854-55	89	2,717	13	4	2,157	2	2
		1864-65	191	8,967	3	4	6,101	10	1
		1874-75	297	21,059	5	0	11,761	12	4
		1887-88	296	16,473	16	12	12,240	15	4
Sholapur	...	1854-55	157	10,290	11	0	4,310	4	1
		1864-65	186	12,483	10	0	5,240	12	6
		1874-75	216	14,080	34	0	7,091	10	0
		1887-88	155	11,149	0	0	5,098	13	0
Khandesh	...	1854-55	127	2,393	14	0	3,609	4	11
		1864-65	238	6,221	6	0	7,631	11	0
		1874-75	333	10,590	3	0	14,524	0	0
		1887-88	452	20,492	19	0	19,346	6	10
Nasik	...	1854-55	67	1,839	7	12	2,266	6	1
		1864-65	122	3,130	29	0	3,974	10	11
		1874-75	377	12,176	34	8	16,694	10	10
		1887-88	549	18,393	9	8	27,607	12	10
Thana	...	1854-55	...	......			......		
		1864-65	...	......			......		
		1874-75	336	8,669	39	0	10,632	1	1
		1887-88	464	13,978	3	0	15,003	15	1
Ratnagiri	...	1854-55	522	1,951	20	0	13,435	5	2
		1864-65	576	2,054	20	0	15,905	15	11
		1874-75	687	12,531	14	4	16,879	14	7
		1887-88	1,148	21,901	28	0	23,253	13	6
Bijapur	...	1854-55	813	35,333	10	0	16,274	9	0
		1864-65	1,134	46,733	39	0	23,130	3	5
		1874-75	1,203	49,241	21	0	25,277	1	1
		1887-88	1,419	57,179	28	10	33,931	6	6

Note to Form No. 6.—Castes of Persons whose occupancies are entered in Form No 6.

District.	Names of Castes.
Poona	Marwari and Gujarati.
Satara	Marwari and Gujarati.
Nagar	Marwari and Gujarati.
Sholapur	Brahmin, Vani, Gujar, Teli, Marwari, Mussalman, Maratha, Mali, Komti.
Khandesh	Brahmin, Sutar, Marwari, Dhangar, Bohori, Shimpi, Vani, Rajput, Kunbi, Ladsake, Drake, Londari, Mussalman, Kumbhar, Pardeshi, Mahar, Bhate, Kalal, Teli, Kasar, Agarwale, Ghardi, Katherwadi, Dhakad, Wachait, Pinjari, Mali.
Nasik	Marwari-Wani and Gujarati-Wani.
Thana	Marwari, Gujarati, Somewanshi, Sankoli, Brahmin, Wani, Koli, Agri, Parsi, Gawandi, Kunbi Bhate, Wenori, Rajput, Christian, Israil, Thakar, Parbhut, Gaud-Brahmin, Mussalman, Pardeshi, Shimpi, Waishya.
Ratnagiri	Different castes.
Bijapur	Brahmin and Lingayat.

Abstract of form No. 6.—Abstract of Occupancies held by persons of certain castes at different periods.

Districts.	Per cent. increase in 1864-65 compared with 1854-55.			Per cent. increase in 1874-75 compared with 1864-65.			Per cent. increase in 1887-88 compared with 1874-75.		
	Number of Occupancies.	Area.	Assessment.	Number of Occupancies.	Area.	Assessment.	Number of Occupancies.	Area.	Assessment.
Poona	88·5	54·7	45·6	31·6	75·5	70·7	31·6	20·6	2·5
Satara	44·1	114·1	124·4	9·9	18·4	6·3	3·2	21·8 decrease	6 1 decrease.
Ahmednagar	114·6	229·9	182·8	55·4	134·8	92·7	·3 decrease	21·2 decreaes	4 0
Sholapur	18·4	21·3	21·5	16·1	12·7	35·3	28·2 decrease	20·8 decrease	20·8 decrease.
Khandesh	87·4	159·9	111·4	39·9	70·2	90·3	35·7	93·5	33·2
Nasik	82·0	70·2	75·3	209·0	289·0	320·0	45·6	51·0	65·3
Thana	...	...	...	...	...	...	38·0	61·2	41·1
Ratnagiri	10·3	5·2	18·3	19·2	510·0	6·1	67·1	74·7	37·7
Bijapur	39·4	32·2	42·1	6·0	5·3	9·2	17·9	16·1	34·2

A. F. WOODBURN,
On Special Duty.

No. 32. From A. F. Woodburn, Esq., On Special Duty, to the Secretary to the Government of Bombay, Judicial Department,—No. 187, dated Ahmednagar, the 27th April 1889.

With reference to paragraph 28 of my No. 189 of to-day's date, I beg to forward copy of Form No. I which I sent to Collectors to fill up for selected villages. The total number of families whether indebted or not should have been entered in column 1, and the total value of estate whether of indebted families or not should have been in column 3. I believe the Collectors could correct all the returns in this way, and could also divide column 3 into two columns so as to show the value of the estate of indebted families separate from that of unindebted families, without making any fresh enquiry. Column 1 could similarly be divided to show indebted families separate from unindebted. The compiliation would perhaps take them a month or two. In many cases (I believe in most), the Mamlatdars have not shown the estate of unindebted families in column 3, but this might be diepensed with provided that the returns distinctly showed that the value of the estate was that of indebted families alone.

2. I enclose also copies of all the other forms sent to Mamlatdars, and other enquiring officers and to Subordinate Judges.

3. In case of similar enquiries being made at some future time it would be advisable, I think, to request the Collectors to preserve the vernacular returns for villages, Forms 1 to 6.

No. 33. From Collector of Bijapur, to the Secretary to the Government, of Bombay, Judicial Department,—No. 581, dated Camp Sindgi, the 2nd February 1889.

With reference to Government Resolution No. 2709 of 25th May 1888, I have the honor to report as follows.

2. As I have had no experience whatever of the working of the Deccan Agriculturists' Relief Act, none of the matters embraced within the questions set forth in paragraph 6 of the Resolution have fallen under my cognizance, and I shall be able only to offer my personal opinion on one or two of them as based on general considerations.

3. As to the desirability of extending the Act in whole or in part to the Bijapur District, my own opinion has all along been adverse to such a measure. I have seen nowhere any evidence of the existence of circumstances that could lead me to believe in the necessity of it. I can only say that I am quite willing to modify this opinion if the result of the special inquiries that have been lately instituted shows reason for doing so.

4. I have consulted the Assistant and Deputy Collectors in charge of talukas. Two of them, *viz.*, Mr. Harvey, C.S., and Mr. Deshpande have had experience in the Ahmednagar District since the introduction of the Act there.

5. Rao Bahadur Shriniwas Balaji Chitgubi writing from the Bagevadi and Muddebihal Talukas says that in his opinion the introduction of the Act either wholly or partially is not desirable, the agriculturists of both talukas not being in a condition to desire or apply for it.

6. Rao Bahadur N. G. Deshpande, with experience of Ahmednagar, writes for the India, Sindgi and Bijapur Talukas :—

"In my opinion there is no necessity to introduce the Act or its modification in the part of this district in my charge. Indebtedness is not so great as it is in the parts of the Ahmednagar District, which were in my charge * * . Nor is it such as weighs very heavily on the rayat and necessitates special measures for relief."

7. Mr. Harvey, in charge of the talukas of Bagalkot, Badami and Hungund, says :—

"I am altogether opposed to the introduction of the Act in its entirely into the talukas in my charge * * . The very opposite '(of the state of things in the districts, where the Act applies)' is the case in my talukas. In Hungund and Bagalkot the condition of the rayats is excellent; and the percentage who are involved in debt is very small, and the amount of their indebtedness is not, I believe, very great. The condition of the Badami Taluka is not so good as that of the other two, but even there the sawkars do not press very heavily on the agricultural classes. As far as my observation has gone, and all the Mamlatdars are of the same opinion, the provisions of the Act regarding Conciliators, Village Munsiffs, and hearing of special suits under the Act are not required. I have seen something of the working of the Act in the Ahmednagar District and the general result seemed to be that, while the rayats got freed from part of their debts, their credit was ruined, and the sawkars impoverished, without much advantage being gained in any way."

8. Mr. Harvey, however, thinks that—

"In order to protect the agricultural classes from any unfair dealing, the whole of Chapter VIII, Chapter IX and Section 70 of the Act might be made applicable to this District, as far as regards the agricultura classes only. The other classes do not, in his opinion, require any further protection than they have at present."

9. Mr. Harvey's suggestion in the first place involves the appointment of Village Registrars, and I am not prepared to recommend their establishment here, although I am of opinion that, for the protection of the illiterate classes in general, some measure is desirable that would bring under some kind of moral control the individuals who find a profession in drawing up documents for the benefit of ignorant clients. The question whether this class of people should not be licensed deserves, I think, consideration. Every body is at liberty to be his own lawyer, and draughtsman, if he has the necessary accomplishments; but if he have them not, he appears to be entitled to protection and this would be to some extent afforded if the profession of amateur conveyancing were deprived of some of its present simplicity by requiring its followers to give some kind of guarantee of honour and probity. This might be effected by requiring them to take out licenses for the practice of their art; and such licenses should only be issued after due inquiry into character, and the licensees should be required to observe simple but definite rules as regards the formalities with which a document must be drawn up, executed and attested; and to certify to those rules having been observed in each case.

10. In order to make such a measure of any effect, it would be necessary to refuse registration to documents not drawn up by either the executant himself or a licensed practitioner.

11. It would probably be carrying protection too far to demand similar guarantee of attesting witnesses; but in these days there would be little hardships in requiring that they should be persons with higher literary ability than the mere capacity to scrawl their names.

12. I agree with Mr. Harvey as to the extension of Chapter IX, and see no reason why its provisions should not be given general effect to.

13. I am opinion that general effect should be given to the latter part of Section 7 of the Act requiring the Court to examine the defendant as a witness, or otherwise to record its reasons for not doing so.

14. With regard to the subject of going behind the bond, under the provisions of Sections 12—14 of the Act, I am of opinion that general effect should be given to the principles of section 12, which appears to be in accord with every consideration of equity and to be likely to be a powerful check on fraudulent dealings.

15. I am, however, of opinion that the taking of an account under section 13 should not be a necessary accompaniment or sequel to the operation of section 12. The provisions of section 13 appear to me to be of too inquisitorial a nature to be adopted in any case except where preliminary investigation has indicated the existence of fraud or undue influence, of such mistake or accident as in the opinion of the Court renders the enquiry equitable and desirable The Court should, I think, record a finding on the evidence of fraud, etc., before proceeding to this further inquiry, though it might be provided that the inquiry should be made by the Court in any case in which both parties desire it to be made.

16. With regard to suits for redemption and suits for account, I am of opinion that the general application of the provisions of section 15-A, as they stand, would not be justifiable. They appear to require modification by a relation of the conditions—such as existence of fraud, undue influence, etc., as in section 12—under which the Court may pass a decree as contemplated. I am also of opinion that a similar modification is requisite with regard to suits for account, *i e.* that the plaintiff should be required to show the existence of a reasonable cause of action, and that the grant of permission to sue should depend on the discretion of the Court after forming its opinion as to the success of the plaintiff in establishing the existence of such cause. With some such modifications I should see no objection to the general application of these provisions.

17. In regard payment by instalments, I am of opinion that the provisions of section 15-B, section 15-C, and section 20, however desirable they may be in places where the Act is in force do not require to be made of general effect, inasmuch as the Civil Procedure Code (section 210) contains sufficient provision for decrees for the payment of money, and it is difficult to conceive any measures more calculated to destroy the credit of the agriculturist than those contained in the Deccan Agriculturists' Relief Act.

18. As to imprisonment for debt, I see no reason at all to exempt the agriculturist from the provisions of the special law on the subject.

19. With regard to the provisions of sections 22, clause 1, I am of opinion that no alteration is necessary in the provision of section 266 of the Civil Procedure Code in respect of agriculturists. The utmost extent to which any philanthropist could go in this direction would, I think, be that the agriculturist should retain the posfession of sufficient immoveable property for the maintenance of himself and his dependents. But it appears to me that such a policy would tend towards the creation of a class of hopelessly impoverished cultivators and to the exclusion by them of men better qualified to take their places, and also to the deterioration of cultivation and to the rendering precarious the recovery of the amount of land revenue represented by such holdings.

Through Mr. Woodburn, C.S., Special Officer.

No. 34. From—W. W. Loch, Esq., Collector of Khandesh, to the Secretary to Government, Judicial Department,—No. 1939, dated Camp Dhulia, the 26th March 1889.

With reference to Government Resolution in the Judicial Department, No. 2709 of the 25th May 1888, I have the honour to submit the report called for as to the desirability of introducing the Agriculturists' Relief Act into this district. I have delayed making the report until I could study the statistics collected at the request of Mr. Woodburn, the Special Officer.

2. I have called on the Assistant and Deputy Collectors in the district and the Mamlatdars for their opinions as to the question raised in the Government Resolution, and I find that all the former officers, and 12 out 16 of the latter, are opposed to any general introduction of the provisions of the Agriculturists' Relief Act. The view taken by them generally is that there is no overwhelming pressure of debt in the district; that the relations between lender and borrower are on the whole cordial; that any legislation which would diminish the credit of the agriculturists and make the money-lenders less willing to advance money to them, would be mischievous, as the cultivators require advances for carrying on their cultivation' and must trust to the sawkars for them.

3. I have now been in Khandesh for some time, and have been all over the district more than once, and I have no doubt that the relations between the borrowing and lending classes are very different from what they were in the Deccan before 1879. I have hardly ever heard the villagers complain of indebtedness, and if the Marwadi is not actually an object of affection

he is not disliked. I recollect that the state of things was very different in the Ahmednagar District when I was an assistant there between 1873 and 1876.

4. The fact seems to be that there has always been more money among the Khandesh cultivators than in the Deccan. Though not more intelligent or more industrious as a rule than the Deccan Kunbi, they live in a land where owing to the climate and the soil they can raise much heavier crops than can be raised in the tablelands of the south, and the country is especially suited for the growth of cotton. The rainfall is not very certain, it is on the whole better than in the Eastern Dec ca n.

5. Further, we have hitherto had in Khandesh a population with a large area of good waste land at their disposal; the money-lender has not therefore grasped eagerly at his debtor's land, and the cultivation of rich new soil, acquired on easy terms, has no doubt often yielded returns which have enabled the debtor to satisfy his sawkar and yet have enough to live on comfortably. These days are almost over: there are indeed areas of fine waste land in the west, but the Kunbis and Gujars hesitate to face the malaria so deadly to new comers, and in the centre and east of the district the population is between 200 and 250 to the square mile, and all the good land has been occupied. It will be most interesting to watch the development of agricultural society under these gradually changing circumstances. In Savda especially the price of land is very high, and it is eagerly sought after as an investment. Leases too are much more common in that taluka than elsewhere, as our registration of returns show. Still there, as elsewhere, land is as a rule cultivated by the Khatedars; in the Amalner Taluka for instance by Deputy Superintendent of Survey reports that 84·9 of the holdings are cultivated by the occupants.

6. The statistics which I have forwarded to Mr. Woodburn show that those persons who are not occupants are, as a rule, rather heavily indebted to an extent considerably more than their property (ornaments and money being excluded). Something like one-third of this class are, however, free from debt, and no doubt the value of the ornaments would be considerable. The labour, too, both of men and women is well paid in Khandesh, men getting as much as 5 annas a day in the larger market towns.

7. Further the statements show that though the indebtedness of occupants is considerable, it does not as a rule exceed the value of the land taken at 15 times the assessment; the occupants have besides much other property, and are clearly solvent. In the west very little land is mortgaged; this is partly owing to the small value, and partly because the Bhils in the western talukas hold land as a rule on a special agreement which does not give them the right of transfer. The amount of land generally mortgaged is not more than one-fourth of the holdings, and it seems frequently to be mortgaged for over 20 times the assessment. There can be no doubt that for the greater part of Khandesh 15 times the assessment does not represent the full value of the land.

8. I also gather from the statistics the information that the holdings of the money lending classes though not very large have been steadily increasing, and I should say at a somewhat accelerating rate. It must, however, be remembered that a great deal of the money-lending in Khandesh is done by wealthy cultivators, and that therefore the transfer of land often means merely its going from one cultivator to another, not its passing into the hands of a non-cultivating landlord. The number of the non-cultivating money-lenders is no doubt on the increase. Before the survey they seem to have been but little known and held hardly any land; but they are now not uncommon and seem to have paid more attention to the acquisition of land of late years.

9. To sum up I would say that we have in Khandesh an agricultural and labouring population who owe a good deal of money and whose indebtedness seems to be gaining on them, but who are certainly at present solvent; who are on good terms with their creditors, many of whom are of their own class: who have not parted as a rule with the ownership of their holdings, and who are generally well-dressed, well fed and fairly housed.

10. I have had but little personal experience of the working of the Agriculturists' Relief Act; what I have had was during the 11 months I spent as Collector in Sholapur I have of course no knowledge of its working from the judicial point of view. The Act seemed to me to be doing good on the whole in the Sholapur District: it was not unpopular with the Kunbis, and though it had undoubtedly checked their facilities for raising money, they no longer

complained of the money-lenders in the way they used to do. How far the Act really facilitated the transaction of civil work, I was not in a position to observe.

11. I hold, however, the view that we ought not to depart from the ordinary system of Civil Procedure and legislate in favour of a class without very strong grounds. To have two systems of procedure working side by side is clearly an anomalous state of things and not one lightly to be introduced. Political reasons may make it desirable to interfere in order to prevent the transfer of land from cultivating occupants to non cultivating landlords. But after careful consideration I have come to the conclusion that there is nothing in the present state of Khandesh to call for the introduction of any measure resembling the Agriculturists' Relief Act. The result of such a step would probably be the interruption of the fairly cordial relations at present existing between the cultivator and his sawkar, and the cessation of the perfectly legitimate system of advances for cultivating expenses to be repaid by the sale of the crops, which is now common in Khandesh.

12. There is, however, one class of the population which deserves special consideration and that is the Bhils and other wild tribes who are so numerous in the west, where many of them are cultivators. It has always been the policy of Government to induce these men to settle down as cultivators and they are consequently given land on easy terms, but without the right to transfer it. No Bhil seems to be able to exist without a sawkar, and as a rule he places the most childlike reliance in the Wanis who have the trade of the west in their hands. These men do not take bonds from the Bhils; such an operation is quite unnecessary, but they keep accounts, which I need hardly say the Bhil never understands and they carefully keep him on the wrong side of their books. No doubt they cheat him unmercifully and get hold of the lion's share of his crops. On the other hand it must be remembered that if the Wani did not get the grain, the liquor-seller would: for the Bhil is incapable of forethought; and in the months when the Bhil is in difficulties for food, the Wani gives him grain to live on.

13. Rao Saheb Shikhre, the Mamlatdar of Taloda, who has paid a good deal of attention to the subject, advocates the introduction of Chapter IX of the Act in favour of the Bhils. Now, while I feel that it is undesirable that the Bhil should be habitually cheated by the Wani, I do not see that Chapter IX will help us under the peculiar circumstances of the case. Nothing will prevent the Bhil going to the Wani with any produce he happens to bring to the bazar, and it would not be wise to do anything to strain the relations between them; for we certainly could not arrange for feeding the Bhils in the months when they have no grain in their houses. Again, a statement of accounts would be utterly unintelligible to the Bhil, and if he got a receipt he would probably lose it, or give it back to his Wani, if he asked for it. It is, I think, almost impossible to help by means of the law people who are utterly unable to help themselves. I, therefore, think that we must let things remain as they are.

No. 35. From W. B. Mulock, Esq., Collector of Nasik, to the Commissioner, Central Division, Poona,—No. 4306, dated Nasik, the 26th July 1888.

I have the honour to report on the desirability or otherwise of the extension of the operation of the Deccan Agriculturists' Relief Act to the Nasik District, called for in paragraph 8 of Government Resolution No. 2709 of 25th May last.

2. I myself have not as yet travelled in the district and am therefore unable to give a really trustworthy opinion on the question; but I find that my predecessor, Mr. Woodward, his Second Assistant Mr. Fraser, and the present First Assistant Mr. Davidson, all officers of experience and intimately acquainted with the district—are unanimous in thinking the Act should be extended.

3. I send Mr. Davidson's excellent report in original and I give below an opinion left on record by Mr. Woodward when handing over charge of his office to me in March last:—

"This question is surrounded with difficulties. I find it hard to come to any definite conclusion on the subject principally because I have never served in a district wherein the Act has operated; so I am not in

position to contrast the condition, *i.e.*, the altered condition of the one against the existent condition of the other.

"If one merely has to be guided by the insolvent or next to insolvent circumstances of the rayatory, there would be no room for hesitation, as I believe cent. per cent. of the rayats are in a state of indebtedness more or less. I had occasion to go into the matter four years ago when revision rates were being brought into different parts of the district and I found this to be the case then. Later experience, observations, and researches do not lead me to infer that the peasantry have much improved, *i.e.*, have relieved themselves to any appreciable extent of the incubus weighing them down.

"The measures of relief under the Act are very large, and given the possession of thrift and foresight to the Deccan rayats they would be effective for their purposes. But these attributes are what the rayats do not possess and will not until education has ameliorated their moral and metal standard. Hitherto the rayat has got along fairly enough with the assistance of his Sawkar. The effect of the Relief Act being of course to disrupt the relations between the two. On this point reports from districts where the Act obtains vary. Some say the result has been the survival of a few capitalist Sawkars who, instead of dealing with the rayat on the old paternal terms, treat with him now on banking principles; the consequence being that the lands of the rayats are fast passing into the hands of these Sawkars, that the rayats are become mere tenants-at-will, and that the tenure, no longer rayatwari, is approximating that of zamindari. Whether the above is a true description I know not, but it can be verified by the Collectors of the districts concerned. On the other hand, I have learned that the effect of this loss of his Sawkar's aid has been to create a feeling of independence and a desire for co-operation among the rayats themselves. If such has been the effect, then indeed the Act has done all that could be desired. If the rayat finds he can do without the crushing assistance of the money-lender, his future welfare is assured. But again, I can't say whether this is true or not and whether it may not be a solitary and so exceptional instance. On the whole, seeing the very manifest advantages of the Act, I am inclined to favour its introduction and would recommend its introduction into Nasik and Khandesh at the same time.

"As regards the working of the Act, though no special difficulty may be experienced in the Deshi portions of this district, yet I fear in the Dangi parts, the absence of respectable and well-to-do persons may prove an almost unsurmountable barrier. As often as not the Watandar Kulkarni is the only literate person in a group of perhaps 7 or 8 villages under his charge—he, no doubt, assists rayats in advancing money to them, and he would practically be the only person eligible for the post of Conciliator."

4. In the face of such strongly expressed views I cannot but think that the Deccan Relief Act should be given a trial as the state of the rayat as depicted by Mr. Davidson could not be much worse than it is.

From J. Davidson, Esq., C.S., First Assistant Collector, Nasik, to the Collector of Nasik,—No. 1171, dated Nasik, the 20th July 1888. No. 36.

With reference to your endorsement No. 302 of the 14th January, which owing to want of information on certain points I was unable to reply to before going on leave in March, and which Mr. Doderet has kindly forwarded to me, I have the honour to state that the bad condition of the cultivators in the Malegaon and plain part of the Baglan Taluka was very early forced on my notice by the great difficulty experienced in collecting the Government revenue even when the crops were fairly good, and where experiments showed that the actual assessment was only a small percentage on the gross produce. Subsequently the extreme indebtedness of many of the cultivators of both dry and irrigated land was seen in examination of the banker's books which were produced when hearing appeals against the income-tax. In these cases the bankers frequently stated their willingness to accept one-fourth of the debt and give a release from all obligations.

2. As instances of the position of the land-holders I have had a village in each taluka carefully enquired into by the Mamlatdars, who seem to have gone very fairly into the position of the people. I had intended personally to test the returns in these villages on the spot, but my absence on leave and transfer to another charge has rendered this impossible.

3. The villages selected were fair-sized ones with populations between 500 and 1,000 and were considered averagely well off villages for that part of the country. They are Sompur in Baglan, Deole in Kalvan, Mulgaune in Malegaon and Sakora in Nandgaon.

The village of Sakora in Nandgaon is partly bagait and is situated only 4 miles from the head-quarters and the railway, and the position of the people there is a good deal better than that of the villagers in the other talukas.

There are 144 holders of Government land, of whom I consider 34 to be dependent on other calling than farming; the main proportion of the remaining 110 are Malis and Kunbis.

I find that 16 Kunbis holding land assessed at R292-10-0, and 8 Malis holding land assessed at R112-0-0, and 6 other castes at R40-6-0 have no debts.

The accompanying table shews the position of the other cultivators :—

Caste.	Assessment of Land.			Debts.			Value of Property, including Land and Houses but not Ornaments.			REMARKS.
	R	a.	p.	R	a.	p.	R	a.	p.	
Kunbi	14	8	0	150	0	0	225	0	0	
	9	12	0	160	0	0	220	0	0	
	8	0	0	18	0	0	50	0	0	
	7	4	0	400	0	0	175	0	0	
	12	0	0	140	0	0	310	0	0	
	6	10	0	100	0	0	60	0	0	
	11	0	0	75	0	0	215	0	0	
	7	8	0	700	0	0	400	0	0	
	55	4	0	227	0	0	1,360	0	0	
	4	8	0	1,109	0	0	102	0	0	
	5	10	0	250	0	0	375	0	0	
	9	8	0	70	0	0	325	0	0	
	9	10	0	87	0	0	305	0	0	
	17	4	0	300	0	0	535	0	0	
	32	8	0	200	0	0	360	0	0	
	16	8	0	25	0	0	375	0	0	
	35	2	0	125	0	0	600	0	0	
	49	1	0	255	0	0	832	0	0	
	10	10	0	85	0	0	522	0	0	
	52	10	0	250	0	0	1,000	0	0	
	3	12	0	80	0	0	38	0	0	
	34	14	0	200	0	0	580	0	0	
	25	4	0	200	0	0	668	0	0	
	5	8	0	1,275	0	0	20	0	0	
	44	12	0	400	0	0	1,310	0	0	
	34	12	0	240	0	0	898	0	0	
	5	8	0	150	0	0	60	0	0	
	4	12	0	250	0	0	65	0	0	
	9	0	0	250	0	0	50	0	0	Pledged.
	14	12	0	474	0	0	45	0	0	Do.
	10	8	0	119	0	0	225	0	0	
	18	4	0	180	0	0	296	0	0	
	29	8	0	600	0	0	630	0	0	
Mali	2	12	0	400	0	0	80	0	0	
	5	8	0	500	0	0	50	0	0	
	7	0	0	400	0	0	290	0	0	
	5	0	0	400	0	0	450	0	0	
	3	12	0	1,400	0	0	700	0	0	
	11	0	0	1,000	0	0	125	0	0	
	5	0	0	185	0	0	270	0	0	
	6	8	0	380	0	0	310	0	0	
	6	8	0	330	0	0	200	0	0	
	3	12	0	500	0	0	......			
	9	8	0	250	0	0	1 100	0	0	
	31	8	0	180	0	0	590	0	0	
	26	8	0	215	0	0	325	0	0	
	12	0	0	335	0	0	......			Pledged.
	25	12	0	700	0	0	259	0	0	Do.
	18	0	0	950	0	0	700	0	0	Do.
	44	4	0	300	0	0	672	0	0	
	20	14	0	200	0	0	125	0	0	
	14	12	0	150	0	0	441	0	0	
	16	0	0	350	0	0	......			Pledged.
	15	14	0	210	0	0	250	0	0	
	28	0	0	460	0	0	68	0	0	
	28	8	0	125	0	0	602	0	0	
	13	12	0	50	0	0	160	0	0	
	8	0	0	25	0	0	90	0	0	
	27	0	0	300	0	0	310	0	0	
	11	8	0	50	0	0	140	0	0	
Rajput	8	0	0	360	0	0	500	0	0	Pledged.
	13	0	0	250	0	0	53	0	0	Do.
Teli	32	8	0	400	0	0	540	0	0	
	14	8	0	700	0	0	515	0	0	
Nhavi	11	8	0	200	0	0	134	0	0	
Thakur	2	4	0	300	0	0	119	0	0	
Musalmin	7	0	0	80	0	0	150	0	0	
Koli	25	8	0	180	0	0	350	0	0	
Mhars	6	8	0	150	0	0	50	0	0	
	11	4	0	50	0	0	100	0	0	
	14	0	0	50	0	0	75	0	0	
	4	8	0	200	0	0	40	0	0	
	3	8	0	40	0	0	......			
	5	0	0	50	0	0	70	0	0	
	13	8	0	175	0	0	130	0	0	
	7	4	0	60	0	0	105	0	0	
Mang	7	8	0	25	0	0	30	0	0	
Chambar	10	8	0	153	0	0	100	0	0	
	9	0	0	165	0	0	10	0	0	
	1	6	0	sold up.			......			
	232	6	0	23,077	0	0	24,408	0	0	

These figures show that in this village out of 110 cultivators 30 (per cent.) are out of debt, 34 (per cent.) are absolutely bankrupt and 46 (per cent.) have property equal to pay their debts, but in very few cases anything beyond. Sompur is a large bagait village on the Mosum in Baglan and has the outward appearance of a well-to-do village, but on close enquiry its state is as follows :—

There are 66 land-holders in the village, of whom 23 mainly Marwadis and Ladsike Wanis and Shenwais are not in the ordinary sense cultivators; the Shenwais have long been settled in the village, but the Marwadis and Wanis are new comers These hold lands in the village assessed at R1,101-4-0.

The true cultivators are 43. Three of these are Bhils who hold R4-7-0 worth of land and who have no debts doubtless because they have no credit, and the details of the remainder are as follows :—

Caste.	Amount of holding.	Debt.	Remarks.
	R a. p.	R a. p.	
Kunbi	72 6 0	3,000 0 0	Has increased his holding, but land pledged.
	174 7 0	5,000 0 0	Do.
	251 13 0	200 0 0	Do.
	65 6 0	2,000 0 0	Land pledged.
	32 15 0	1,500 0 0	Do.
	63 0 0	1,000 0 0	Do.
	118 12 0	3,500 0 0	Do.
	152 10 0	100 0 0	
	51 2 0	600 0 0	Do.
	113 7 0	300 0 0	
	96 0 0	600 0 0	Do.
	50 12 0	200 0 0	
	73 7 0	1,500 0 0	Do.
	118 13 0	5,000 0 0	Do.
	10 4 0	......	
	31 11 0	600 0 0	Do.
	61 12 0	150 0 0	Had increased his holding.
	57 4 0	3,000 0 0	Land pledged.
	48 6 0	250 0 0	
	6 14 0	400 0 0	Do.
	5 2 0	......	
	5 4 0	......	
	10 14 0	500 0 0	
	1 6 0	1,000 0 0	
	7 2 0	4,000 0 0	Do.
	17 8 0	150 0 0	Newly purchased.
	0 13 0	500 0 0	
Jin Malis . . .	73 0 0	125 0 0	
	77 1 0	4,000 0 0	Land pledged.
	63 2 0	3,000 0 0	Do.
	64 4 0	3,000 0 0	Do.
	44 12 0	500 0 0	Do.
	52 5 0	500 0 0	Do.
	78 9 0	2,500 0 0	Do.
	10 0 0	1,200 0 0	Do.
	4 12 0	800 0 0	
Vidur	7 14 0	250 0 0	Do.
Dhobi	32 2 0	1,500 0 0	Land holding sold up.
	8 6 0	200 0 0	
Nhavi	7 0 0	50 0 0	
TOTAL .	2,219 5 0	52,675 0 0	

I have unfortunately not got particulars of the property of these men, and as bagait land is much more valuable than jirayit and requires a larger stock in all probability the amount of property held by the rayats exceeds their debits. The fact, however, remains that out of 40 cultivators, only 3 are not in debt and that the debts exceed 24 years' purchase of all their land and that 24 out of the 40 have had to mortgage the land.

Mulgam in the Malegaon Taluka is a dry-crop village, far from Malegaon and distant from any good road, and the land there which is poor has consequently a smaller value.

The number of land-holders is 90, of whom 15 persons (mainly Marwadis and Brahmins) holding land, assessed at R252-11-0, may be classed as non-cultivators. The others are of all castes, but the village was originally a Rajput one, and a considerable proportion of the people are still Rajputs. Of these, 15 persons holding land assessed at R169-14-0 are not in debt, one of whom though a Kunbi is a trader and money-lender, and several others have newly acquired lands.

The accompaying table shows the position of the other cultivators :—

Caste.	Holding.	Debts.	Remarks.
	R a. p.	R a. p.	
Rajput	54 4 0	1,000 0 0	
	19 2 0	200 0 0	
	23 3 0	900 0 0	
	9 0 0	200 0 0	
	9 8 0	400 0 0	Land pledged.
	26 4 0	300 0 0	
	12 2 0	500 0 0	Land-holding sold.
	6 0 0	300 0 0	
	46 3 0	100 0 0	
	2 4 0	200 0 0	
	10 8 0	2,000 0 0	Land pledged.
	4 0 0	200 0 0	
	8 4 0	100 0 0	
	13 4 0	150 0 0	
	6 8 0	700 0 0	
	11 0 0	200 0 0	
	23 0 0	150 0 0	
Kunbi	37 0 0	600 0 0	
	1 10 0	300 0 0	
	5 8 0	1,000 0 0	Ditto.
	4 0 0	400 0 0	
	5 8 0	300 0 0	
Malis	80 8 0	700 0 0	
	40 0 0	300 0 0	
	9 0 0	300 0 0	Land being sold.
	42 2 0	100 0 0	
	7 8 0	500 0 0	Ditto.
	1 12 0	100 0 0	
Mhar	6 0 0	100 0 0	Ditto.
	8 0 0	300 0 0	
	7 8 0	400 0 0	Ditto.
	13 4 0	600 0 0	Ditto.
	7 0 0	100 0 0	Ditto.
	36 0 0	100 0 0	
	4 12 0	100 0 0	
Koli	37 0 0	700 0 0	
	13 0 0	300 0 0	Ditto.
Pinjari	13 0 0	500 0 0	Ditto.
Teli	8 0 0	1,500 0 0	Ditto.
	10 0 0	200 0 0	Ditto.
	12 0 0	100 0 0	
Mang	31 4 0	100 0 0	
	2 4 0	200 0 0	Ditto.
	3 4 0	100 0 0	
Pardhi	13 6 0	400 0 0	Land being sold up.
	5 0 0	100 0 0	
	24 8 0	700 0 0	Land pledged.
	2 4 0	100 0 0	
Wanjari	9 4 0	100 0 0	
Sutar	9 0 0	400 0 0	Ditto.
	7 8 0	100 0 0	
	32 8 0	400 0 0	Ditto.
Dhobi	10 0 0	200 0 0	
Musalman . . .	8 8 0	200 0 0	Ditto.
	4 12 0	100 0 0	
Bhil	5 8 0	100 0 0	
Lohar	3 0 0	100 0 0	
Khatik	6 0 0	200 0 0	
Chambhar . . .	1 12 0	60 0 0	
Nhavi	20 8 0	300 0 0	
TOTAL .	884 8 0	21,060 0 0	

This shows an indebtedness of 24 times the average assessment of those cultivators who are in debt, and 20 times the assessment paid by all these cultivators.

Deole in Kulvan is a large village and contains both jirayat and bagayat land, and there are altogether 145 land-holders, of whom 102 are Kunbis.

These pay Government assessment amounting to R1,942-15-0 and their debts amount to R45,965. In addition there are 16 other persons true cultivators, though not of the Kunbi caste. These latter cultivate land assessed at R148-2-0 and their debts amount to R2,700. Taking these two classes together there are 118 cultivators in the village. Of these 36 are

not in debt, 15 owe less than 10 times the assessment of the land. While the remaining 67 owe at least that amount. The other land-holders, Brahmins and Wanis, are also much in debt.

These villages are, I consider, fair average villages, and I am sure villages in which the condition of the people is much worse, could easily be pointed out in each taluka. The statistics collected certainly appear to me to bear out the opinion I had formed from personal observation everywhere as to the general unsatisfactory condition of the people, particularly in the plain country. The hill people have much fewer wants and much less credit, and their land has no value if sold, and consequently they manage to live in the usual way; hill people do from hand to mouth, without any exceptional hardship. Many, however, owe money, and their crops when cut at once find their way into the hands of their creditors, and they therefore live on borrowed gain and what they can make by labour till their next crop is ripe. I myself am of opinion that the main body of the cultivators are in very much the same state that the Sholapur and Poona cultivators were in 1875, when I made minute enquiries into the state of several villages, and the Mamlatdars all agree that their present condition is very far from satisfactory. Indeed the Mamlatdar of Kulvan writes that he is convinced that very few of the cultivators have anything like grain stored up for food to last till the next crop or means to buy it, and that they are consequently at the mercy of their creditors and compelled to buy grain from them of any quality or at any rate they choose to charge.

A state of things like this is self-evidently unsatisfactory and wrong if a remedy can be discovered. I have never served in any district in which Bombay Act XVII of 1879 is in force: and it is therefore difficult for me to offer an opinion as to whether it would improve matters here.

Judging from the Government Resolutions on the Administration of Nagar, Poona and Sholapur it appears to me that the opinion of the District officers there is that the condition of the rayats is improving. Of course the famine of 1876-77 was very severe there, and when the Act came into force, the condition of the people could not have been worse.

A return of normal seasons, the loss of a large portion of the surplus population, and the rest that the land received for some years in consequence would certainly cause a great improvement in the people and it of course must be a very difficult task to decide how much (if any) of this is the result of the Agricultural Relief Act.

The Act mainly deals with two distinct important subjects, first the establishment of Arbitration Courts (Chapters V and VI) and secondly the opening out of all the transaction between the parties (Chapter III).

As to the first I must say I do not consider it is likely to be a success in this district. I do not think there is here, if there is any where in Western India, a class with the requisite knowledge, time and straightforwardness to decide the various troublesome questions that arise without receiving remuneration from some one or other for their trouble.

As to the second question, I certainly think it most desirable that the whole transactions between the debtor and creditor should be gone through and the debtor not merely sued on the last bond he may have signed. The most common complaint against the creditors made in this district is that the creditor neglected to enter in his books payments in kind or entered a smaller amount than was really made. This is made to a Magistrate and frequently relates to transactions of several years and he is asked to seize the creditors' accounts and to audit them, by the aid of oral evidence, and if he finds that any payments have been omitted, to punish the creditors. Such an investigation is impossible in a Criminal Court, but when a creditor sues a rayat in my opinion it ought certainly to be made in the Civil Court; at present it is seldom made, as the creditor fixes on the time the rayat most needs new advance to threaten to sue him on an old debt or bring into force a decree already obtained, and under this pressure the rayat is generally willing to sign a bond on getting the money he absolutely needs, and takes the creditor's word for the state of the account. With an illiterate peasantry such as we have this legal advantage should not be given to the creditors.

Section 70 of the Act is also one, I think, that is needed, and although most of the good land in these talukas is mortgaged, still, had this been in force, I believe the percentage of mortgaged land would have diminished and will diminish if the Act is now introduced. The first effect of the introduction of the Relief Act will, I fear, be a total loss of credit to the majority of the rayats and that will no doubt for a time cause them extreme difficulty in paying their revenue to Government, it will also probably almost ruin the smaller sawkars. I think, however, that the conditions of the people are so bad, and their prosperity and contentment so absolutely necessary to Government, that if in the opinion of those who have seen the working of the Relief Act it has improved the position of the peasantry where it is in force, I would certainly introduce it here.

I have been unable to obtain the particulars asked for in your No. 1036 of 20th February last, but the returns are not, I think, very important, as it is more the pressure of decrees than the actual decrees themselves that cause the transfer of lands and the execution of onerous bonds, and to avoid further delay I forward this report without them.

No. 37. From Rao Bahadur MAHADEO GOVIND RANADE, Special Judge, Poona, to Acting Under Secretary to the Government of Bombay, Judicial Department,—No. 336, dated Poona, the 7th September 1888.

As desired in paragraph 5 of Government Resolution No. 2709, dated 25th May 1888, I have the honour to submit the following report on the two points referred to therein, *viz.*, (1) whether the fees and stamp duties payable in litigation under the Relief Act might with advantage be placed on an equality with the stamps and fees levied in ordinary litigation ; (2) what would be the probable financial effect of such a change, regard being had to any probable decrease of litigation from an increase in its costs.

2. The appended Statement A has been prepared from details furnished by the Subordinate Courts in the four districts, giving the figures for 1887 from January to December. The following remarks will explain the details shown in the statement.

3. Column (2) shows the number of suits instituted of all kinds under and outside the Act. Column (3) shows the value of the subject-matter of such suits. The total of column (2) is R16,675 and of column (3) R25,22,639, giving an average of R151 for each suit.

4. Columns (4) and (5) show the receipts from Court-fees and process fees in 1887 in the Subordinate Courts of the four districts. Their total comes to R2,09,550. This figure agrees generally with the corresponding figures for the years 1885-86 and 1886-87 (R2,17,091 and R2,18,679 respectively). The receipts from these two sources are thus between 8 and 9 per cent. of the value of the subject-matter in litigation.

5. Coming next to the suits in which Government has been pleased to allow total or partial exemption from fees (*vide* Government of India's Notifications No. 2092, dated 29th July 1881, No. 3203, dated 12th May 1883, No. 3502, dated 14th October 1885), it will be seen from column (6) that in only 541 suits in which the subject-matter was valued at R1,64,606 was total exemption allowed. These suits are redemption or account suits, and the total exemption obtains only in three districts. The total exemption applies only in respect of Court-fee stamps. In respect of process fees in redemption or account suits, the rule is to charge half fees in suits under Chapter II, while in suits outside the chapter the usual rates obtain.

6. Exemption from half the fees is allowed in all suits in which agriculturists are parties. Their number comes to 5,312 suits (column 8), and the value of the subject-matter is R3,26,900 (column 9). The half exemption rule thus applies to less than one-third of the entire number of suits, and the value of the subject-matter of these suits is about one-eighth of the entire value of all kinds of suits instituted in the four districts. In respect of this exemption also, it may be stated here that the rule applies only to suits under Chapter II, while outside the chapter no exemption is allowed. Taking columns (6) and (8) and (7) and (9) together, it will be seen that the total number of suits in which partial or total exemption was allowed comes to 5,853 suits, which is slightly in excess of one-third of the total number of suits, and the value of the subject-matter in exempted suits is R4,91,506, which is slightly less than one-fifth of the total value of all suits.

7. Columns (10) and (11) show the separate receipts from Court-fees and process fees in exempted suits, including both those shown in column (6) (totally exempted suits) and column (8) (suits in which half fees are levied). Their total comes to R20,601.

8. The next point for inquiry is what is the approximate loss in the receipts from Court-fees and process fees due to these exemptions. The figures supplied by the Subordinate Judges on this point are not reliable, and it is necessary to consider the figures already given in some detail to arrive at a satisfactory estimate. One way of ascertaining this loss, which seems to me unobjectionable, is to find out what is the average charge of Court and process fees in ordinary suits to which the exemption rules do not apply. Deducting from columns (2) and (3) (number of all kinds of suits and their value), the totals of columns (6) and (8) and (7) and (9), respectively (number of exempted suits and their values), there remain 10,822 suits valued at R20,31,133 in which the ordinary rates of fees are levied. Deducting similarly from the total of columns (4) and (5) (the total receipts of Court and process fees),

the figures given in columns (10) and (11) (receipts of Court-fees and process fees in exempted suits), the balance is R1,88,949. Dividing this balance of receipts by the balance of the values shown above (R20,3',133), the result is found to be that the receipts on account of Court-fees and process fees in ordinary suits are about 10 per cent. of the value of the subject-matter involved in litigation. Applying this rate to the value (R1,64,604 + R3,26,900, columns 7 and 9) of exempted suits, the receipts at the ordinary rate of 10 per cent. ought to have been R49,150, while the actual receipts were R20,601, which shows a loss of about R28,549 approximately. This figure includes both Court and process fees.

9. The next point is to ascertain the loss in Court-fees and process-fees separately. As far as the Satara figures are concerned, there is no difficulty; for the figures are those shown in columns (10) and (11). In regard to the other districts also, there is no difficulty in calculating the loss of process fees, because the figures given in column (11) are half of what would have been realized. This figure is R4,396 or about R4,400. Deducting this sum from the sum of R28,549, given above, the Court-fee's loss is R24,153.

10. Lastly, in respect of Court fees it is necessary to see what was the amount of the loss by reason of the total exemption in redemption and account suits. The value of these suits was R1,64,606, and at 7½ per cent. on this value the loss would be about R12,345. The remaining R11,808 will represent the loss in other suits to which the exemption of half fees applies. To this figure (R12,345) about R1,000 may be added on account of loss in process fees. The total loss on account of these redemption or account suits is thus about R13,345.

11. The next question for consideration is whether the exemption allowed under Government Notifications can with advantage be done away with. On this point the Subordinate Judges were consulted, and more than half of them (16 against 14 Subordinate Judges of 20 against 16 Courts) have expressed themselves as opposed to the suggestion of raising the fees, and doing away with the exemptions. In the Satara District the majority of the Subordinate Judges 7 to 2 and in the Sholapur District 4 to 2 are opposed to the removal of the exemption. In the Poona District the majority of 4 to 3, and in the Ahmednagar District of 6 to 2 are in favour of doing away with the exemptions. The two Special Subordinate Judges are also against any proposal to enhance the duties. I am of opinion that the total exemption allowed in redemption and account suits in the three districts may with advantage be removed, and the Government of India's Notification No. 3502, dated 14th October 1885 made applicable to Satara District in 1885, might be extended to all the other districts. By this change a loss of R13,345 might be avoided. I do not think that the exemption of half the duties allowed by Government of India's Notification No. 3203, dated 12th May 1883, should be done away with. The benefit to Government likely to result from that change would be about R19,601 (R16,205 x R3,396)—a sum not at all commensurate with the addition to the burdens of agriculturist debtors which would result from such a step.

These calculations are made on the supposition that increase of fees will not sensibly check litigation. The Subordinate Judges were consulted on this point also, and nearly all of them have reported that there will be no decrease in litigation. Even the few who apprehend a decrease put it down at less than 5 per cent., which is not a matter of much moment. I am also of opinion that the change I have proposed will not check litigation in way, and even if the exemption of half the duty was cancelled, it will not seriously check litigation. The provisions of the Act are resorted to not so much on account of the partial or total exemption allowed by Government Notifications, but by reason of the material advantages secured to agriculturists by Sections 7, 12 to 15, 16, 20, 22 and 72.

13. To sum up I am of opinion—

(1) That the exemption of all Court-fees and stamp duties in redemption and account suits may with advantage be now discontinued in all the districts.

(2) That this will increase the receipts of the Courts by R13,345.

(3) That the exemption of half the Court-fees and process fees in agriculturist suits entails a loss of R19,601.

(4) That this exemption should not be removed as the levy of ordinary fees and duties would unduly increase the burdens of the agriculturist defendants.

(5) That no serious check to litigation will result from the proposed enhancement of the duties to the ordinary scale.

14. The draft of these report was shown to the Inspector-General of Registration and Stamps, Bombay.

A

No 38. *Statement showing the Number and Value of Suits instituted and also the amount of Court-fees and process fees realised during the year 1887 in the Subordinate Courts in the Districts of Poona, Satara, Ahmednagar and Sholapur.*

Name of District.	Number of Suits filed from 1st January 1887 to 31st December 1887.	Amount claimed in suits mentioned in Column 2.	Amount of Court-Fees realised during the year 1887.	Amount of Process Fees realised during the year 1887.	SUITS IN WHICH FULL AND HALF EXEMPTION RULES ARE ALLOWED. Suits in which full exemption is allowed. Number of suits.	Amount claimed in suits mentioned in Column 6.	Suits in which half exemption is allowed. Number of Suits.	Amount claimed in suits mentioned in Column 8.	Amount of Court-fees realised in Suits mentioned in Column 8.	Amount of Process Fees realised in full and half exempted Suits.	Remarks
1	2	3	4	5	6	7	8	9	10	11	
		R a. p.	R a. p.	R a. p.		R a. p.		R a. p.	R a. p.	R a. p.	
Poona . .	4,025	10,57,675 13 9	43,715 15 0	14,537 12 0	193	95,601 6 8	1,253	67,763 8 5	3,237 4 0	968 15 0	
Satara . .	4,009	5,07,375 7 7	39,053 15 0	13,430 4 0	...	......	1,784	1,09,180 0 10	6,429 6 8	1,588 12 6	
Ahmednagar.	5,479	5,15,131 11 6	43,275 5 0	16,118 10 0	175	34,874 12 8	1,856	1,24,137 0 0	5,911 3 0	1,186 10 0	
Sholapur .	3,162	4,06,455 15 8	24,105 5 0	10,313 15 0	173	34,130 11 0	419	25,819 12 2	627 5 6	652 8 0	
Total .	16,675	25,22,639 0 6	1,50,150 8 0	59,400 9 0	541	1,64,606 14 4	5,312	3,26,900 5 5	16,205 3 2	4,398 13 6	

M. G. RANADE,
Special Judge.

No. 39. From T. M. Filgate, Esq., Inspector-General of Registration and Stamps, Bombay, to W. Lee-Warner, Esq., Secretary to Government (Judicial Department), Bombay,—No. 2027, dated Bombay, the 15th September 1888.

I have the honour to reply to the reference contained in paragraph 5 of Government Resolution, Judicial Department, No. 2709, dated 25th May last.

2. I was at first under the impression that the intention of Government was that the Special Judge and myself should conjointly submit a report on the points referred to in paragraph 5, but having within the last day or two had the advantage of reading Mr. Ranade's draft report, I have been strongly impressed with the view that it deals with questions regarding which neither my experience in registration or stamp matters nor the data available to hand in this Department at all fit me to express an opinion, and that therefore while it was intended that the Special Judge should report on the effect of the raising of the Court-fee and stamp duties, it was probably the intention of Government that I should report on the result of the enhancement of the registration fees.

3. The *ad valorem* scale under the regular Registration Fee Table and that under the Village Registration Fee Table differ but slightly. In the former table the fee on instruments from R200 up to R400 is one of R2, while in the latter there is a fee of R1-8 on deeds from R200 up to R300. For every thousand rupees or part of a thousand rupees in excess of a value of R20,000 in the Registration Departmental Fee Table there is a charge of one rupee, while under the Village Registration Fee Table, after the limit of R20,000 is passed, the charge is only 8 annas per thousand. A instrument, however, relating to property exceeding R20,000 in value is, as matters now stand, unknown to village registration. Practically, therefore, the *ad valorem* scale under each system is almost exactly the same, while as regards certain special fees, which do not exercise much influence on the bulk receipts under either branch of registration, the Village Registration Fee Table has the advantage of being the shortest and simplest of the two.

4. The great point of difference between the two tables is this, that under registration proper in addition to the *ad valorem* fee, we levy a copying fee at the rate of 2½ annas per folio of 100 words, while no such copying fee is leviable under the Village Registration Fee Table. In dealing with this question, therefore, it will in my opinion be sufficient if I base my calculation on the assumption that to introduce a copying fee for registration under the Relief Act would be practically to raise the village registration fee rates to the level of the ordinary registration fee rates.

5. In the past year 1887-88 there were 83,264 registrations under the Relief Act, the average fee having amounted to 5 annas and 11 pies. Over the preceding four years the average registration fee amounted to 8 annas and 8 pies, the heavy fall in average fee having

been caused by the introduction on the 1st January 1887 of Act XXIII of 1886, which not only transferred the registration of all deeds, of what is called the compulsory class under the Registration Act proper, from Village Registrars to Sub-Registrars (thus bringing down the average value per transaction and the average registration fee), but also reduced the cost of all registrations by no longer enforcing the preparation of a copy (for which a fee was charged) of the instrument for each executant thereof.

6. The village registration system during the past year has been worked at a loss of R24,921. Taking the number of registrations in the past year and the average fee as the basis of my calculation, I would say that to extinguish the deficit of R24,921 named above (allowing for the increased fee percentages payable, on the enhanced realization to the Village Registrars), an addition of 6 annas to the average fee per transaction would have to be made. Such an addition to the fee in 83,264 cases would mean an increase in receipts of about R31,200. The average length of each deed registered under the Relief Act may, I think, be taken at 2 folios of 100 words each. To introduce a copying fee, therefore, under village registration, that is to say, to assimilate the two fee systems, would give us 5 annas per transaction more than at present, which on a total of 83,264 transactions would mean an increase in revenue of about R26,000, and this sum, if deductions be made for the extra commission payable to Village Registrars, would fail to extinguish the deficit by about R4,000.

7. To raise the village registration fee rate to the ordinary registration fee rate would mean, therefore, to raise the average fee under the Relief Act from R0-5-11 to R0-10-11, while to extinguish the deficit at present existing the average fee will have to be raised to R0-11-11. During the four years ending 1886-87 the highest average fee in any one year, before the amendment in the law to which reference has been made took place, was in 1884-85 when it stood at R0-8-11.

8. I venture very respectfully to deprecate the assimilation of the fee rates, seeing that it would, as above shown, nearly double the cost of each registration under the Relief Act. Towards extinguishing the deficit we should, I think, look to a reduction in the number of village registrars as vacancies fall in—a system which, on carrfully considered lines, was started more than two years ago and which still continues; while, lastly, I trust that Government will not forget that one result of the introduction of Act XXIII of 1886 has been, while causing a heavy falling* off in the realization under the village registration system, to produce a still heavier gain† in the receipts of the Registration Department proper.

From G. JACOB, Esq., Acting Registrar, High Court, Appellate Side, Bombay, to the Secretary to the Government of Bombay, Judicial Department,—No. 852, dated Bombay, the 25th April 1889. No. 40.

I am directed to forward to you the accompanying reports from the District Judges of Poona, Satara, Ahmednagar and Sholapur-Bijapur, called for in paragraph 6 of Government Resolution, Judicial Department, No. 2709 of the 25th May 1888, on the subject of the Deccan Agriculturists' Relief Act, and to say that the Honourable the Chief Justice and Judges do not feel competent upon the materials before them to offer any opinion upon the questions stated in the Resolution referred to.

2. The delay in replying to your letter No. 2710, of the 35th May 1888, which covered the abovementioned Resolution, has been due to the delay in obtaining replies from District and Subordinate Judges and others, whom their Lordships thought proper to consult.

From E. T. CANDY, Esq., District Judge of Poona, to the Secretary to the Government of Bombay, Judicial Department,—No. 4135, dated Poona District Court, the 22nd December 1888. No. 41.

I have the honour to submit my report on the Deccan Agriculturists' Relief Act (Government Resolution No. 2709, dated 25th May 1888).

I.—Comparison of the two systems as regards the attainment of substantial justice—

(*a*) The compulsory examination of defendants which prevents *ex-parte* decrees.

(*b*) The power to set aside inequitable stipulations,

tend to promote substantial justice more than does the ordinary system. On the other hand cases are to be found where the provisions of sections 12 to 14 have operated harshly on the sawkar; and there is no doubt that in many cases the continual adjournments which are necessary to force the defendant to appear do cause hardship. The summons is generally for the final disposal of the suit (section 7), and the plaintiff has often to bring his witnesses to Court and send them away unexamined.

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* Between R17,000 and R18,000 in 1887-88. † About R22,000 in 1887-88

II.—Comparison of the two systems as to certainty.

There is no difference, except so far that when the Court comes to examine the past history of a debt, or the rents and profits of mortgaged estate, several Subordinate Judges express a fear that they are working more or less in the dark, and under such circumstances there must be some uncertainty.

III. Comparison as to celerity—

(a) Between the first step and the decision of the suit there is of course more delay under the Deccan Agriculturists' Relief Act. For there is first the conciliator's certificate to be obtained, and then there are often delays in procuring the attendance of the defendant, and in obtaining evidence as to past history of debts or profits of land, etc. ;

(b) As to the actual enforcement of decrees when obtained ; it follows from the fact that instalments are so often allowed under the Act that there is more delay in the execution of decrees. Also it is clear that the exemption of immoveable property from attachment, and immunity from arrest, must cause more time to be taken in the enforcement of decrees.

IV.—Comparison as to convenience. Possibly the occasions are rarer that a just and sound decree is not given under the Act, because the Subordinate Judge is bound to investigate the history of cases, and he can in other way deal more in accordance with equity than the strict letter. But as to effectual execution, the complaints are numerous. There is so little to be obtained in execution, and so much time and trouble are wasted in obtaining than little. As to the harassment and loss of time to parties and witnesses, allusion must be made to the point above noted regarding continual adjournments to procure the attendance of the defendant or to obtain evidence as to the past history of the transactions between the parties.

V.—Comparison as to economy—

(a) Accepting the differential fees in force it is manifest that the ryots of the favoured districts have an immense advantage, and there is a proportionate loss to Government. Then Government have to bear the costs of the conciliators and the several additional courts.

(b) Under these circumstances it seems to me impossible that the fees in ordinary suit should be reduced to those required in suits under the Special Act.

(c) But the question requires careful consideration whether the special reduced fees should not be raised to the ordinary level. I do not think that this would cause increased indebtedness among the ryots. Some well informed persons are of opinion that the special suits for which the Act was intended are nearly all done It must also be remembered that apart from court-fees the costs under the Act are often less. In many cases defendants have no vakil, and the procedure by way of revision (Chapter VII) is cheaper than appeals.

VI.—I do not think that it can be said that the system of the Deccan Agriculturist's Relief Act tends to the institution of *many* righteous suits which would otherwise be suppressed. It has in some mortgage cases. On the other hand there is a consensus of opinion that the Act has encouraged to a material extent the institution of unjust and speculative suits. Instances are often met with where redemption suits have been brought when there was really no mortgage. State claims have been revived, and the equity of redemption is sometimes assigned by a non-agriculturist mortgagor to an agriculturist in order to obtain the benefit of the special provisions of the Act. Also it is said that false defences are more frequent now, and certainly exaggerated estimates of the profits of lands are continually made.

VII.—The act has tended to improve the material condition of the ryots because it has freed some from a heavy load of debt. But it has ruined some small money-lenders (whether that is to be regetted or not is a different question), and it has generally weakened credit ; it has also to a certain extent caused a degeneration of tone among the community. Many defendants seem to think that as a matter of course they must repudiate their debts. Each party, the creditor and debtor, is now too apt to take an extreme position : each tries to prove too much ; and no doubt the relations between the two classes are embittered. It may be admitted that many ryots have become energetic and careful of their own interests, but their energy is often turned in a wrong direction ; credit being lessened, the introduction and application of capital are impaired. Sawkars are generally averse to giving loans except on the security of land.

VIII, IX.—If the Act be retained then the following changes may be considered—

(a) Amend the definition of agriculturist, and prevent cases where an agriculturist assignee is merely the tool of a crafty assignor.

(b) Make compulsory the insertion in the plaint of the history of past transaction, and the production with the plaint of all account books.

(c) Strike out Section 7.

Section 66 of the Civil Procedure Code is sufficient. The first clause of section 7 is unworkable. *Very* seldom can the Court dispose of the suit at the first hearing. Subordinate Judges can be directed generally in certain cases to order the defendant to appear. Also some provision is necessary, like section 97, Civil Procedure Code, if plaintiff fails to pay the fee necessary for the process to *compel* defendant's appearance.

(d) Repeal section 22, clause 2. It is useless. Provision might be made for assigning land to a creditor for a number of years in full liquidation of a debt. It is said also that section 19 and Chapter IV are practically useless.

(e) I have doubt regarding the conciliation system. It has been said to me more than once that certain conciliators have become rich. Perhaps it would be possible to limit the necessity of a conciliator's certificate to certain classes of suits.

(f) Some amendment seems necessary to provide for the more speedy execution of decrees. Perhaps the services of village officers could be utilised, especially in regard to the attachment and sale of standing crops.

(g) It has been suggested that village registrars before registering a document should have a statement of the account furnished by the sawkar and should note the same.

X.—If the Act is extended to other classes then it should be with modifications as shown above, applying to all the classes to which the Act extends. I do not think that some of the provisions should apply to some classes and others to others. It is very difficult to define the "other classes," but speaking generally I am inclined to include day labourers, artisans, petty dealers, and such like.

XI.—I would see first how the amended Act (the fees being raised) works in the Deccan districts before applying it to other districts.

XII and XIII.—For the same reason I would not attempt to amend the Civil Procedure Code, which applies to the whole of British India, without seeing how the special provisions of the Act as amended work. I do not at present see how any improvement is suggested by the Act in the constitution and jurisdiction of the Civil Courts or in their way of working under the ordinary law, or in the system of fees.

I much regret the meagre report which I have been obliged to submit. The fact is I have recently been so harassed with work that I collected my notes on this subject and the reports of the Subordinate Judges and put them on one side, intending to take advantage of the Christmas holidays in order to submit a carefully prepared report. But I this morning received an urgent expeditor, and therefore I am forced to submit my opinion hurriedly.

Through the Registrar of the High Court of Judicature at Bombay.

From W. H. Crowe, Esq., District Judge, Satara, to the Secretary to the Government of Bombay, Judicial Department, No. 3009, dated District Court, Satara, the 21st November 1888. No. 42.

I have the honour to submit the report called for in Government Resolution No. 2709, Judicial Department, dated 25th May 1888, on the working of the Deccan Agriculturists' Relief Act and the desirability or otherwise of introducing it into districts other than those in which it is in force.

The first question on which opinion is asked is "How does the system of the Deccan Agriculturists' Relief Act compare with the ordinary system as regards the attainment of substantial justice"? It appears to me that there is no basis of comparison between them. The Deccan Agriculturists' Relief Act is a measure framed to relieve the agricultural classes in certain parts of the Deccan from indebtedness. The principles of the Act are new and anomalous throughout.

These principles may be briefly stated as follows:—

A.—Compelling the Courts to go behind the contract.

B.—Establishment of courts of conciliation.

C.—Extension of summary jurisdiction without appeal.

D.—Compulsory registration.

E.—Exemption of agriculturists from arrest and their immoveable property from attachment and sale (unless specifically pledged).

F.—Extension of periods of limitation.

G.—Augmentation of the number of tribunals.

H.—Simplification in Civil Procedure.

A large discretion is allowed to the Courts in—

(1) ordering payment of a decree by instalments;

(2) ordering discharge of the judgment debtor;

(3) determining a fair rate of interest;

(4) setting aside inequitable contracts;

(5) ordering appropriation of profits.

These then are the principles which have been enacted by the Legislature to relieve the condition of the agriculturist classes.

I am not called upon to express an opinion as to the political necessity which dictated legislative measures of the exceptional character found in the Deccan Agriculturists' Relief Act. If it be conceded that legislation was necessary to protect a class exposed by their ignorance, imprudence, weakness of understanding and the necessities of their position to the fraud, oppression and rapacity of money-lending class and to relieve them from contracts which are deemed inequitable on these grounds, then I am of opinion that the Act has had the effect of affording that relief, but no comparison can be instituted with the old law as regards the attainment of substantial justice. If, on the other hand, the principles of the Act are not accepted, the law has been entirely one-sided and arbitrary favouring the debtor class at the expense of the creditor.

I shall allude briefly to what has been the effect and operation of some of these principles in the working of the Act.

(*a*) Sections 12, 13, 14 of the Act, lay down the manner in which the Court must inquire into the past history of the transactions, take an account notwithstanding any agreement between the parties, and determine a reasonable rate of interest in claims for money due when the defendant is an agriculturist and in claims for foreclosure against an agriculturist or for redemption by an agriculturist. This enquiry into the merits of each transaction has been described to be the most important means of relief afforded by the Act. The Subordinate Judges are invested with large discretionary powers in the setting aside of contracts which may appear inequitable in ordering the appropriation of profits and in fixing the rate of interest.

The immediate effect of these provisions was largely to decrease the business of the Courts. The number of suits filed in the four Deccan Districts in 1880, the year after the introduction of the Act, was 11,795 as compared with 36,106, which represented the average of the preceding ten years, and the decrease was most marked in those Courts which had to do with a population almost exclusively rural. The reason was not far to seek. Creditors, who had not been required by law to keep accounts, suddenly found that the past history of their transactions with their clients for a long series of years was to be opened up and that they were liable to produce the necessary proofs at each stage of the transaction. It was commonly stated that the money-lenders had been scared out of the Courts, and it is pretty certain that the decrease was due in a great measure to the distrust and uncertainty produce by the anomalous provisions of the Act. The number of suits filed steadily increased up to 1885 as will be seen from the following table when a decrease commenced.

Year.	Suits filed.	Conciliation agreements effected or referred to arbitration.	Total.
1880	11,795	6,943	18,738
1881	16,542	8,477	25,019
1882	16,787	9,874	26,661
1883	17,800	8,131	25,931
1884	19,299	9,585	28,884
1885	21,612	9,375	30,987
1886	19,059	6,304	25,363
1887	17,436	6,475	23,911

The decrease, as compared with the number of suits instituted before the Act came into force, has been attributed partly to the system of conciliation which was said to intercept in in its initial stages a vast amount of the threatening litigation and to the extension of the period of limitation. No doubt each of these causes has operated to some extent, but even if the number of cases in which conciliation may be said to have succeeded be added to the number of suits filed, the total still falls far short of the average of the preceding ten years, specially when it is borne in mind that litigation has to a great extent been encouraged by the total remission of Court fees in redemption suits and the imposition of half fees only in suits falling under Chapter II, in which agriculturists are concerned. It is further to be noted that redemption suits, which in 1880 scarcely amounted to 100 and rose to 3,529 or 20 per cent. of the entire litigation in 1883, are a form of litigation which may be said to have been almost created by the Act. The power of going behind the bond really affects only those suits in which the claim is contested. The Special Judge in his annual reports has furnished statements showing the extent to which such claims have been awarded in full or have suffered abatement. The percentage of cases to which sections 12, 14 are applied amounts roughly to 24 per cent.; the proportion of abatements varies from 30 to 32 per cent., and this reduction is stated to be confined to an abatement of the interest claim and seldom touches the principal. All of the Subordinate Judges have reported favourably on this particular povision of the Act as tending to introduce fairness and equity in the transactions of parties who are naturally so unequally matched as the money-lenders and the agriculturists. There can be no doubt that one marked effect of this provision has been a moderation on the part of the sawkars in the rate of interest demanded in all their recent transactions.

(*b*) *Conciliation.*—One of the most important features of the Act was the establishment of Courts of Conciliation on the model of those obtaining in France. Regarding the personnel of the office, much discussion took place before the Act became law. It was stated that a knowledge of law was unnecessary and even reading and writing not indispensable for the discharge of the functions of a conciliator in which the layman of age, influence, shrewdness and good temper might easily surpass the highly trained Judge.

Selected native gentlemen were to be carefully chosen for Conciliation Judges. They were to mediate by virtue of their local social influence and were not to be empowered to put pressure upon the defendant to compel his attendance; their success was to depend on their commanding public confidence and on the exertion of their moral influence with the parties. The published returns of the last five years of the working of the Act will show

Year.	Number of applications presented before conciliator.	Number of agreements effected by them.	The proportion in percentage between the applications presented and the agreements effected.
1883	49,911	8,115	16·2
1884	49,657	9,576	19·2
1885	40,641	9,361	23·03
1886	32,183	6,296	19·5
1887	30,628	6,469	21·1

that the conciliation system has not been successful in effecting agreements between the parties in more than one out of five cases coming before it. Generally it is said the parties settle the matters in dispute between themselves and go before a conciliator to get it reduced to writing before him. Of the total number of cases where the attempt to conciliate failed, Rao Bahadur M. G. Ranade, the Special Judge, reports that in—

1880	56 per cent. refused to attend,
1881	70 " "
1882	78 " "
1883	83 " "
1884	84 " "
1885	87 " "
1886	88 " "

and he argues therefrom that, so far as these cases were concerned, the system cannot be held responsible for failure, as the conciliators had no opportunity of exercising their functions.

Report, 1885, page 19.

The figures are suggestive of another inference, however, namely, that the rayats have purposely declined the offices of the conciliation Court, because they had reasons for deliberately preferring the formal tribunal of the Civil Court. It was owing to this gradual increase of

percentage in failing to attend, that a change in the law, by which attendance before conciliators could be forced, was deemed necessary, and an amendment to the Act was added by section 8 of Act XXIII of 1886, which empowered a conciliator not only to *invite*, but to *direct*, the attendance of a party against whom an application was made under section 39 of the Act, and made him liable to criminal proceedings on failure to obey the summons. Out of 236 conciliators the powers of enforcing compulsory attendance have been conferred on 59, and the result has been that out of the total failures the percentage of refusals to attend has gone down from 88 to 80 per cent. Whether this experiment has been pruductive of the good results which the Special Judge contemplates, may well be open to doubt. It would appear, on the face of it, that the conciliators did not possess that social influence or command that public confidence which was expected, if the parties altogether declined their mediation. The conciliators themselves may well say that the indirect effect of the amendment has been beneficial, inasmuch as they have been invested with increased powers, which cannot fail to carry additional local influence.

In those talukas where no conciliators exist, I observe, from the reports, that in 1887 the total number of compromises amounted to 48 per cent. of the total number disposed of, as compared with 26 per cent. in the 26 conciliation talukas. This difference in the percentage shows the natural tendency to com promise apart from external influence when the parties are not arrested by the procedure before the Courts of conciliation.

Looking at the total results of the working of the system, it appears to be of doubtful advantage. The men appointed would appear to be unfit for cases of an intricate nature which are brought before them. They have neither the capacity, nor the leisure, nor the disposition to conduct a lengthened inquiry into the past history and merits of a dispute. The consequence is, that the procedure before a conciliator is now purely a formal matter and therefore imposes additional trouble and expense on litigants. Almost all of the Subordinate Judges, pleaders and other gentlemen whom I have consulted, approve of the system, but find fault with the method of working it. Rao Saheb Dhondo Janardan Karmarkar, the late Subordinate Judge of Karad, whose death and loss to the Mofussil Bench I cannot sufficiently deplore, after considerable experience in the working of the Act, stated his belief that most of the non-official conciliators do not go into the past history of transactions, as they have neither the time nor the inclination nor the necessary legal knowledge and experience to enable them to undertake this troublesome task, or anticipate with tolerable correctness the probable result of the case, if the parties went to Court; that the absence of this knowledge mars the usefulness of the best conciliators, the percentage of abatements is more apparent than real, as the conciliators have no power to compel the production of accounts, they have no reliable means to ascertain the true state of the transaction, they cannot refuse their sanction to an agreement settled by the parties between themselves, such settlement between the parties is not the result of successful mediation, the sawkar turns to account his advantages and imposes upon the ignorance of the agriculturist classes. The system does not seem to be in harmony with the general spirit of the Act; its results in the majority of the cases are not favourable to the agriculturists, as they enable the sawkars to evade the special provisions which were intended for their benefit.

The Special Judge, in his reports for 1885 and 1886, has pointed out that the experiment of appointing Subordinate Judges as official conciliators has not proved very successful. "The Subordinate Judges," he remarks, "have sufficient work of their own, and by reason of their frequent changes they have not that local knowledge, nor that local interest so necessary to induce parties to come to them for amicable settlements." In reference to this matter, it may be noted here that the work of the Subordinate Judges throughout the four districts is on the decrease, that local connexions invariably mean local prejudices often inconsistent with an impartial attitude, and that the recent legislation, with a view to conciliate parties against their will, would appear to indicate that they are at all events no worse off than the non-official conciliators in the latter respect.

(*c*) Coming to the question of summary jurisdiction, I may observe that, probably, no portion of the Bill called forth such acrimonious discussion in the commencement as the provisions relating to the substitute of revision for the right of appeal. The system of revision was stated to be more in accordance with the spirit of the Bill, which was to leave every thing as much as possible to the discretion of the Judges. Even in mortgage suits the right of appeal was taken away, and such suits were included under Chapter II, no decree or order passed in any suit to which that chapter applies being by section 10 appealable.

The provisions of Chapter II can be made applicable by the consent of the parties to suits of the specified descriptions which exceed R100, but do not exceed R500 in value

(section 3, clause *b*) when such suits are heard by Subordinate Judges of the 2nd class. At the outset it was ascertained by the Subordinate Judges, who had experience in the working of the Act, that parties were unwilling to give the necessary consent, and that this reluctance was usually shown on the part of the creditor. This was the case in spite of the inducement offered by a refund of half the court-fees in agricultural cases by applying the provisions of Chapter II. There has been, however, a gradual and marked improvement during the last three or four years, which may possibly be attributed, in the words of the Special Judge, "to a growing appreciation of the efficiency of the machinery of revision and its acceptance as an adequate substitute for the right of appeal."

Consent was obtained in 11 per cent. of the total of such suits in 1883, 13 per cent. in 1884, 17 per cent. in 1885, 25 per cent. in 1886, and 33 per cent. in 1887.

I may refer under this head to the establishment of Village Munsifs who exercise jurisdiction, in cases up to R10 in value. It is admitted by the Special Judge that, as a measure of relief to indebted agriculturists, the institution has not proved to be of any importance, and that it is only prized in taluka towns where there is a trading community or a considerable industrial population living on wages, and that with the general mass of the people it is not popular. The institution is beyond the scope of the Act, and there would appear no good reason why suitors should have such claims disposed of without fee or cost of any kind.

The expediency, moreover, of investing with judicial powers irresponsible and unpaid persons having local prejudices, local sympathies and antipathies is doubtful.

(*d*) *Registration.*—There is a consensus of opinion, that the village registration system, prescribed by the Act, causes immense hardship to the people without any corresponding advantage, and that the sooner it is swept away the better. As the law stands, every bond, promissory note or receipt of whatever amount is required to be registered. I may shortly touch upon the evils attendant on the present system. The condition of the agriculturists is such that they cannot do without borrowing small sums from time to time, as necessities arise, and money-lenders since the passing of the Act are more than ever careful not to lend a pie without taking a bond. An agriculturist wishes, for example, to borrow a sum of R10—his village is situated some 5 or 6 miles from the village where the circle village Registrar holds his office. If he is not personally known to the registering officer, he must take some one, with whom the officer is acquainted, for the purpose of indentification. This person is generally the village kulkarni. He must also take one or two persons to attest the bond. None of these men will undergo this trouble for nothing. They expect to be paid 4 to 8 annas each as batta. Then the village Registrar himself has to be compensated, if for nothing else, in order that he may do his work quickly, so that the parties and witnesses may not be unnecessarily detained. When the stamp duty for the bond and the registration fee are added to the above expenses, the debtor finds himself out of pocket by some R2 or so in contracting a small loan of this character. The class of persons appointed to these duties are everywhere denounced as unsuitable, no test as to their qualifications beyond acquaintance with the registration rules being prescribed. There is at present very little real supervision over the work of village Registrars owing to its divided character. If a village Registrar refuses to register a document, the party aggrieved has to travel 40 or 50 miles, it may be, to the head-quarters of the District Registrar to prefer an appeal. This difficulty of course has the effect of suppressing many real causes of complaint. In a vast number of cases the objects for which this present registration system was framed, are not attained. The agriculturist debtor when sorely in need of money is ready to consent to anything which may be written in the document as to the nature of the consideration. The farce of actual payment of cash before the registering officer is actually gone through, but it affords no guarantee as to the real nature of the transaction, as the money is duly returned to the creditor as soon as the business before the Registrar is effected.

As there are now but few modes left open for procuring effectual execution of simple money decrees, creditors will hardly run the risk of forging simple money bonds. In his report on the working of the Act during the year 1884 I observe Dr. Pollen expressed himself as not altogether satisfied with the working of the system. "It, no doubt," he writes "prevents fabrication and fraudulent alterations of instruments; but in other respects it does not supply that protection to the weaker party which it was intended to supply. It does not prevent false and collusive descriptions of the character of transactions being entered in the instruments, nor does it ensure the nature of the consideration being truly set forth; and as it aims at securing these objects, it is likely hereafter to give rise to legal presumptions that may prove injurious to the very parties it was designed to protect."

The changes in the law which seem to be most imperatively demanded, are to make the registration of money bonds optional and to make it compulsory only in the case of sales,

mortgages, leases, and other conveyances affecting immoveable property. It requires a man of some education and training to put searching questions to parties appearing before him for the registration of a document as to the actual nature of the transaction whether it is intended to be an out-and-out sale or a mortgage.

Regarding the other matters, namely:—

(*e*) Exemption of agriculturists from arrest and their immoveable property from attachment and sale,

(*f*) Extension of periods of limitation,

(*g*) Augmentation of the number of tribunals,

(*h*) Simplification in Civil Procedure—

I shall have occasion to refer to them in the course of this report. I may, however, notice here that many of the provisions of the Act have been altogether inoperative and useless from the commencement. Section 19, which gives the Court power to discharge a judgment-debtor when his debts do not amount to R50, has hardly ever been acted upon. In his report for 1884 the Special Judge remarked that section 19, clause 1, remained inoperative as in *previous years*. The Subordinate Judges are unable to give effect to the section, as debtors are unwilling to be declared insolvents, and their debts always exceed R50. The same remarks will apply to Chapter IV (sections 24-33) relating to insolvency. Its provisions, to his credit be it said, are altogether distasteful to the feelings of the Hindu agriculturist debtor.

Similarly, section 22, clause (2), which provides for the management of the lands of debtors by the Revenue Department, has remained inoperative throughout. Very few of the indebted agriculturists are stated to have spare lands which can be set apart for the Collector's management, and the Revenue officers have their own legitimate work which requires all their time.

II.—Comparison as to certainty.

There can be no question that the system of the Deccan Agriculturists' Relief Act compares unfavourably with the ordinary law in reference to the possibility of predicting the result of a decision on a given state of facts. The uncertainty is due partly to the inherent difficulties of the law itself and partly to the wide discretion which is accorded to the Courts and to the diverse opinions which different Judges may take of what equity demands when exercising the discretion which the law imposes on them.

The points upon which widely divergent views may be taken, have reference to—

(*a*) the inquiry into the past history and merits of a case from the commencement of the transaction between the parties;

(*b*) the taking of an account;

(*c*) the estimate of the profits;

(*d*) the determination of the rate of interest;

(*e*) the burden of proof as regards consideration;

(*f*) the order as to payment by instalments;

(*a* and *b*). With regard, firstly, to the inquiry into the past history of the case, there can be no doubt that the system has been pushed too far. The law requires an account to be taken of rent and profits on the one hand and interest on the other. In many cases the mortgagees have kept no accounts at all, or their account book and documents have been destroyed. They were under no legal necessity to keep them. There are, therefore, no reliable data on which any sound opinion, as to the amount of profits received by the mortgagee during the time the land has been in his possession, can be determined. The statements of the witnesses produced by both parties as to the productive powers of the land are grossly exaggerated, and widely conflicting. A custom has, therefore, sprung up, which is even alluded to by some Subordinate Judges, as a "rule," of estimating that half the amount of a debt represents principal and half interest. In a recent judgment—Mahadu valad Vithu *vs.* Rajaram valad Wadjaram (High Court Printed Judgments, 1887, page 216)— the High Court have ruled that the Act when it bids the Court "to enquire into the history of the case" does not intend a defective history to be eked out by mere guesses such as have led the Subordinate Judges in the case in question to widely different conclusions. The point from which the calculations should be commenced, is where reasonable certainty begins.

(*c*) Next as to the estimation of the profits. In most cases it is absolutely impossible to arrive at any just conclusion from the oral evidence tendered by litigants. The mortgagee asserts that the land produces scarcely enough to pay the assessment. The rayat gives an extravagant and fabulous estimate of the produce. In such cases the Subordinate Judge either appoints a commission to determine the value on the spot; but well-qualified experts

on such matters are not easily met with, and the Court is generally left to take a mean between the two extremes, or to form a rough average by the light of its own experience. A number of other points arise for consideration, such as the market value of the grain in any year, the cost of cultivation, and all of which combine to render the ascertainment of the net profits a difficult operation.

(*d*) The next point is the determination, by the Court, of a reasonable rate of interest. Here again there is a room for great divergence of opinion. The rule, that the rate of interest should depend on the nature of the security, is often lost sight of. A tendency to adopt 12 per cent. as a reasonable rate has grown up among Subordinate Judges, irrespective of the question whether the land mortgaged is garden land or dry crop, whether it lies near a market town or has other facilities for disposing of the produce, whether the rainfall is certain or precarious, and many other considerations, all of which enter into the question of what rate of interest is reasonable. In some cases there is a disposition to temper the provisions of the Act, so that it may not harshly affect the sawkar; and in taking an account a very small variation in the rate of interest, when the transaction is an old one and the and has been for many years in the possession of the mortgagee, will produce an alarming difference in the result. In a recent case, where the land mortgaged was of good quality and situated near Wai, the lowering of the rate of interest from 12 to 9 per cent. enabled the agriculturist to recover his land without payment instead of having to pay R13,646.

(*e*) Regarding the burden of proof as to payment of consideration for a bond, execution of which is admitted, the law is silent, and it has been held that no strict rule can be laid down as to the party upon whom the burden rests (Maloji Santaji *vs* Vithu Hari, I. L. R. 9 Bom., p. 521). In the above case it was ruled that in the absence of evidence the Court must be content to "satisfy itself" in the language of section 15 of the Act, and that the intention of the Legislature in enacting the Deccan Agriculturists' Relief Act clearly was to relieve the debtor of the necessity of proving failure of consideration, though admitted in the bond on which he is sued, and the execution of which he admits.

(*f*) Another ground of uncertainty is the discretion granted to the Court to award payment by instalments. In some cases the judgment-debtor, taking advantage of the provisions of section 20 of the Act, that the Court may at any time direct the payment of decree by instalments, has sought the assistance of the Court to have the instalments reduced in amount from time to time. By a recent ruling, however (Balkrishna Indrabhan *vs* Abaji bin Bahirji, High Court Printed Judgments, 1887, p. 184), it is held that the section does not authorize any variation of an order once made; otherwise a decree would be subject to indefinite variation.

In some cases, looking to the means of the judgment debtor, the amount of the instalment has been fixed so low as to amount to a positive denial of relief to the judgment-creditor altogether, the annual amount not being in excess of a fair and reasonable interest on the principal sum awarded in the decree.

III.—Comparison as to celerity.

With regard to this question, there is almost a unanimous opinion among the Subordinate Judges, that the system of the Act compares unfavourably with the ordinary system as regards celerity. In every suit by or against an agriculturist a certificate from a conciliator must be previously obtained. The mediation of the conciliator is successful in only a small percentage of the total applications presented to him, and, therefore, the time occupied in the proceedings before him is in the majority of cases needlessly spent. The necessity of securing the presence of the defendant for examination as a witness in every case causes some delay, although the advantage derived therefrom in the disposal of the suit may be said to more than counterbalance the delay and inconvenience. In redemption suits the enquiry which the law demands into the history of the transactions from the commencement necessarily prolongs the duration of the suit.

Coming to the point of comparative celerity as regards the effectual enforcement of decrease it is hardly too much to say that there is no real method of executing decrees under the Act. Everything has been in favour of the agriculturist in the process of litigation up to the pronouncement of the decree. The creditor then finds that he is unable to touch the debtor's person, nor his cattle or house, nor, unless the debt is specifically secured, his land. The majority of agriculturists who figure as debtors in the Courts, have no moveable property whatever. The consequence has been that unsecured debts cannot be realized at all. The immunity of the person of the agriculturist from arrest and of his immoveable property from attachment must delay execution except in those cases where the land is specifically mortgaged. The amendment of the law which was introduced by section 7

of Act XXIII of 1886, by which standing crops are made liable to attachment and sale in execution of a decree even though they have not been specifically mortgaged for the repayment of the debt to which the decree relates, will afford the sawkars certain facilities in obtaining execution which they did not before possess, but of course many old decrees have in the meantime become time-barred under the special limitation provided by the Code of Civil Procedure. The granting of instalments, which are more frequently allowed under the Act than under the ordinary law, also tends to prolong the execution of a decree. As I have already observed, however, the discretionary power given to the Court as to ordering payment by instalments, is one of the good features of the Act, and one which, in the end, tends to the advantage of the money-lender.

IV.—Comparison as to convenience.

As regards the convenience, the aim being to attain just and sound decrees and effectual execution at a minimum of harassment and loss of time to parties and witnesses, there can be no doubt that the system of the Act compares unfavourably with the ordinary law. The object of a sound system of judicial administration is to afford to litigant parties the greatest results with the least amount of trouble and expense, but the reverse is more often the case. In the case of a suit brought on a money bond, for example, the summons to the defendant is generally for final disposal. The plaintiff has his witnesses in attendance at the Court on the day appointed. If on that day the defendant does not appear, a warrant is issued for his arrest and production before the Court, and the plaintiff and his witnesses are directed to appear again at the next hearing. This necessitates the payment of second *batta* to witnesses. If the warrant is returned unexecuted, the hearing is again adjourned, and the plaintiff and his witnesses are again ordered to appear on a subsequent day. If when the defendant finally appears he pleads that the consideration of the bond was an old debt, the plaintiff is required to produce in Court his account books to have the history of the debt investigated. This enquiry into the past history and the examination of a number of witnesses, which it invariably involves, causes much loss of time, trouble and expense to all the parties concerned. The returns for the last five years show that the conciliation system has not been successful in more than 20 per cent. of the total number of applications presented to the conciliators, so that for every one successful agreement four litigants were compelled to go through the formality, required by the law, of the investigation by the conciliator.

The increase in the number of Civil Courts which attended the introduction of the Act has been of great convenience to the mass of the people. That, however, is a measure which is unconnected with the principles of the Act and one the feasibility of which is to be determined by financial considerations only. If the public purse were long enough, it would be *convenient* to have a Civil Court in every village.

V.—With regard to economy, there can be no doubt that the present system of differential fees is a gain to litigants and that the percentage of costs incurred is less than that obtaining under the ordinary law. If the fees in what are termed ordinary suits were reduced to the amount of those levied in suits under the Act, this advantage would be extended. The question, however, of the imposition of Court-fees is one which has only an ancillary connexion with the objects of the Act and is one to be determined by fiscal considerations only.

VI.—There can be no doubt that the system of the Deccan Agriculturists' Relief Act has tended to the institution of many righteous suits which would otherwise have been suppressed. During the eight years (1880 to 1887) not less than 14,520 suits for redemption were instituted in the four districts and 2,857 agreements were sent by Conciliators in redemption cases and filed in the Subordinate Judges' Courts. Of these suits disposed of, in 1,772 cases the decrees directed redemption without payment of any description. The amount of the principal mortgage-debt in those cases was ₨3,38,727. In 3,235 cases the decrees directed redemption on partial payment, the amount of the principal mortgage-debt being reduced from ₨10,59,000 to ₨6,18,000, showing an abatement of 58 per cent. In 2,371 cases the decrees directed redemption on payment in full, amounting to something over 7 lakhs of rupees; in 738 cases redemption was ordered after directing the satisfaction of the debt by the enjoyment of the land for a term of years. Probably few of these suits would have appeared on the file but for the facility afforded for redemption by the provisions of the Act in respect to the investigation of past history, the taking of accounts (Sections 12—14) and by the remission of Court-fees, wholly or partially, in regard to redemption suits.

Under the ordinary law the debtor had no hope of recovering his land by coming to the Civil Court. Having once lost possession of the land he had no means whatever for satisfying the mortgagee's claim, and there was no chance whatever of it being satisfied under the

terms of the contract out of the usufruct of the property. Such lands were held securely by the creditor for generation after generation; he never desired to realise his loan but was content to prolong the state of indebtedness and to convert his debtor and his debtor's descendants into predial serfs, working on the land as ordinary labourers for his benefit.

Several of the Subordinate Judges in the Satara District have alluded to a tendency to bring suits on speculation or founded on false allegations of mortgage. Many suits have been brought by persons who had purchased the rights of the original mortgagors; but of 13,738 redemption suits disposed of in the last eight years, 4,026 were disposed by dismissal or withdrawal or in which no decree was passed.

In his report on the working of the Act for 1882 Dr. Pollen remarked (page 10) that in about 10 per cent. of redemption suits the plaintiffs' claims were wholly rejected. In some cases this was due to the difficulty of establishing by legal proof the fact of mortgage. But besides cases of this kind there are many in which the plaintiffs put forward unfounded allegations of mortgage, having no particle of right to sue for redemption, *e.g.*, when their once existing right has been purchased by strangers at Court sales, or where they have years ago sold their lands out and out or where they have thrown up their lands and other persons have taken the right of occupancy from Government. There is no doubt that a large number of redemption suits have been brought dishonestly or recklessly, but suits on old mortgage transactions are now coming to an end and the evil may be largely mitigated, if not removed, by the re-imposition of a half of the Court-fees in the other three districts in the same manner as has been done in the Satara District.

VII.—I come now to consider Question 7, which is concerned with the economic effect of the Act. As the Act was expressly designed to relieve indebted agriculturists, it would be hard indeed if the material condition of that particular section of the community had not been benefited by it. During the eight years the Act has been in force 14,520 suits for redemption have been instituted, of which 13,738 have been disposed of. The claims amounted to about 22½ lakhs of rupees, which were settled for 14½ lakhs, showing an abatement of 65 per cent. During the same years the Conciliators settled claims in 2,788 cases of a total value of nearly 7 lakhs; the mortgage debts thus settled amounted to nearly 30 lakhs of rupees and the settlement was made at 21 takhs of rupees, showing an abatement of 9 lakhs of rupees, all of which represents so much material gain to the indebted agriculturists. In the Satara District the value of the redemption claims amounted roughly to 17½ lakhs of rupees or 58 per cent of the whole. The indebted agriculturist section of the community have also derived material benefit from the exemption of their persons and property from attachment. In speaking of the class of the community which has derived benefit from the Act I lay stress on the description "indebted" agriculturist, because in the Satara District the circumstances are somewhat different from those in the other three Deccan Districts About 60 per cent of the so-called sawkars are actually agriculturists, so that the material condition of the indebted agriculturist has been for the most part benefited at the expense of the well-to-do and thriving agriculturists. Almost all the persons consulted concur in saying that the rayat's credit has fallen in a great measure and that there is a great difficulty for any but well-to-do cultivators in obtaining advances except under special guarantees of security. The Act has the effect of discouraging mortgages, and the only resource of a rayat who is in urgent want of money is to pass a sale-deed, trusting to the word of the sawkar to allow repurchase on payment of the principal sum with the interest stipulated. With regard to the other sections of the community, large capitalists have not suffered materially as their dealings have not been direct with indebted agriculturists. The middle class of money-lenders have suffered everywhere in exact proportion to the material benefit conferred on the indebted class. They have further been inconvenienced by the necessity of changing their investments and the nature of their business and seeking a new channel for their capital. It is a question whether with his accretion of material wealth the indebted rayat has improved morally. Minute enquiries would tend to show that there is a tendency to spend larger sums on clothing of an extravagant character than formerly. At fairs and other gatherings there is a much larger proportion of red pugrees with gold hems than there used to be. The Abkari revenue has largely increased, showing that a large portion of the rayats' earnings are now spent on liquor and spirits than was formerly the case. In 1878-79 and 1879-80 the excise receipts in the Satara District amounted to ₹35,000. In 1881-82 they had increased to ₹54,000 and in 1886-87 they reached ₹93,000. There is also a notable increase in the number of sweetmeat shops in this district.

I consider it very doubtful whether, as Rao Bahadur M. G. Ranade has assumed in his report for 1887 (page 29), the circumstances he has enumerated "tend to show that the

economical working of the Act has on the whole proved beneficial in creating habits of thrift and prudence and self-reliance, and in many cases of mutual help." In the Satara District the fact that the area of the cultivated land is yearly increasing, that the proportion of *bagayat* land is no higher than ever and the number of livestock, milch cattle, ploughs, etc., higher than before, is due to the fact that the agriculturist capitalists are now diverting their capital from a money-lending business to agriculture as offering the best security for their money. The Deccan rayat, too, I may observe, has never been considered wanting in thrift. The distinguished mover of the Bill remarked, "The Maratha Kunbi is not the defective and useless creature postulated." "All representations of him as thriftless, enervated and puny are incorrect. As a peasant proprietor he is no unfavourable specimen of the class. Mr. Chaplain and our other early authorities give him credit for many sterling qualities. He is still represented by the Commission as a simple, well-disposed peasant, contented with the scantiest clothing and hardest fare, not without masculine qualities and a stubborn endurance, though still mostly uneducated and consequently without a broad range of intelligence. Of course improvidence and slovenly cultivation may be detected in individuals or particular localities. But we must not expect too much. Under British rule the Kunbi has undoubtedly progressed as adverse circumstances allowed. He works his fields to the best of his lights and in the dry season travels far in search of day labour or with his cart on hire. During the late famine he displayed resources equally creditable to his thrift and his good feeling. His embarrassed condition seems to be rather his misfortune than his fault induced by the calamities of the last century, the obligation of ancestral debt, the burden of the land revenue demand formerly in amount and latterly in imposition, and the facilities for extortion conferred by our laws upon his creditors."

The question is of course a delicate one which depends on a consideration of a variety of circumstances which do not fall within the experience of any single individual and can only be accurately appraised after a long period of time. The large payments in and out of Court both in redemption and other suits, have been taken to indicate an honest desire to accept proved liabilities. But it must be borne in mind that the indebted rayat can now afford to pay owing to the direct improvement in his material condition. The Subordinate Judge of Wai, Mr. Bodas, states his opinion that "the greatest evil which the system of the Relief Act has wrought is that it has much impaired the moral condition of the agriculturists, as also of those who have to deal with them. There is more tendency now than before on the part of agriculturists to tell false stories about repayments and nature of debts. They feel almost certain that if they plead that the consideration was old debt, when in fact it was cash payment, there is much chance of the amount claimed being reduced. The creditors also, in order to evade the necessity of furnishing history of old dealings, falsely have the consideration described in bonds as cash payment. In such cases the money representing the full consideration is often actually paid in cash to the debtor in the presence of the registering officer, and taken back immediately after the execution of the document is completed. In not a few of the cases of this sort there gistering officer, who is usually a low paid man, is privy to the fraud and is required to be propitiated. Then in some cases sales are effected where mortgagee were intended. Sometimes smarting under the sense of supposed injury inflicted by the scrutinzing inquiry during the trial of suits the decree-holders, in order to recoup themselves, ignore payments made by debtors out of Court. In fact, though that was certainly far from its aim and object, the system of the Relief Act has to a considerable extent taught both agriculturists and their creditors to be more dishonest in their dealings." The Subordinate Judge of Vati, Mr. Gupte, remarks that "the condition of the agricultural classes has not, however, so far improved as to enable them to introduce any capital in the improvement of their lands, nor are they sufficiently educated to understand the advantages of the application of such capital. Money-lenders in this taluka have not laid out any large capital on the purchase or improvement of lands, and the special feature of much land being found locked up in the hands of capitalists is not noticeable in this taluka. The ordinary rayat has no credit with sawkars and he cannot hope to obtain any large funds for his own wants or for the improvement of his lands without pledging those lands. Even in cases of new loans secured on immoveable property the rayat is now compelled to pay his interest with very great punctuality, because the mortgagee, who does not now expect to obtain anything more from him beyond the interest allowed by the Court in similar transactions brought before it, has no temptation to hesitate to bring the mortgaged property to sale." The liability to keep and render accounts of the profits received and the fear of having to restore the property without any payment whatever have, it is admitted on all hands, acted as a strong inducement to creditors to deny mortgages, which but for those new risks they would have been prepared to admit.

With regard to the personal relations between money-lenders and their clients, though the effect of the Act has been largely to contract the rayat's credit to check the old system of agricuitural loans, there is reason to think that the old personal relations have been gradually resumed. There has been a diminution of agrarian crime of every description. What the attitude of the sawkars would be in a period of scarcity and famine has yet to be seen. The effects of the Act cannot be finally tested until we are confronted with a season of famine and pressure. In a letter addressed to the *Bombay Gazette* of the 3rd September 1888 I observe that a correspondent, speaking of the apprehensions of scarcity in the district of Ahmednagar, writes :—

"In such a state of things it is impossible for the rayats to support themselves, not to say their cattle, unless they part with their fields or the Government comes to their help. But their lands are quite unsaleable even at reduced prices, at such a time, and as the introduction of the Agriculturists' Relief Act had the effect of destroying their credit with the money-lenders, the rayats have no other resource but to depend solely upon what assistance the Government will afford them at such a critical juncture. Much as such a time of scarcity is to be regretted, its occurrence was earnestly desired by many in order to afford the Government an opportunity to test the really evil tendency of the above Act, which they had hitherto disregarded. Before the passing of the Act in question the money-lenders assisted, and even supported, the agriculturist at times of scarcity, partly from the motive of self-interest of recovering their previous debts, and partly from sympathy naturally resulting from the good relations which existed between them. But as that motive has been taken away by the provisions of the Relief Act, which have thrown insurmountable difficulties in the way of recovering their debts and their sympathy has been estranged by the rayats taking undue advantage of the Act, eluding their equitable claims, the money-lenders will not only not help them in any way, but are most likely to take this opportunity to wreak vengeance upon them for the fraudulent conduct which they have assumed towards them under the inducement afforded by the Act."

"The working of the notorious Relief Act during the last seven years, and even in favourable seasons of that period, has proved more detrimental than advantageous to the agriculturists, for whose sole benefit it was specially enacted. The hopelessness of recovering their debts deters the sawkars from supplying the rayats with seeds or food-grains or advancing money for the purpose of buying bullocks and other indispensable things at the proper time, and therefore the latter cannot carry on seasonably their necessary agricultural operations as they used to do formerly. These ill-timed operations greatly interfere as a matter of course with the growth of the crops, and consequently the produce from their lands is decreasing every year."

VIII.—I come now to consider the changes which are necessary or desirable and feasible in the provisions of the Act whereby it cannot be made or kept superior to the ordinary law. There is some difficulty in understanding exactly what is intended by this question. The object of the ordinary law is not to relieve agricultural debtors, which is the express object of this Act. The two systems therefore are working on different lines. I assume that the meaning is that, having the object of the Act in view, are any changes necessary in its provisions? I think that the whole law relating to registration may be expunged from the Act. The compulsory registration of any petty money transactions is found to be a source of immense hardship and expense to the cultivators. The provisions regarding the compulsory registration of instruments relating to land of whatever amount or value may be retained, but that result could be accomplished by trifling alteration in section 17 of the Registration Act.

If conciliation is to be retained and is to be of any soild benefit to the people, a change of the law is required whereby Subordinate Judges may enforce the attendance of parties to a conciliation agreement before it is filed.

Suits relating to mortagage should be removed from the operation of the 2nd Chapter of the Act and an appeal in all such suits allowed. In a recent case (Rupchand v. Balwant, I. L. R. XI, Bombay, 591) it has been held that the valuation of a suit for redemption for purposes of jurisdiction is the amount remaning due on the mortgage or claimed on it by the mortgagee. If then it is found after taking accounts that less than R100 remains due, the provisions of Chapter II will be applicable, whatever may have been the amount of the original mortgage or the value of the property. "A mortgagor may also," as remarked by the learned Judge who decided the case, "be enabled to sue in a Court of low jurisdiction to recover a valuable property on redemption of a mortgage of petty amount," and no appeal will lie under the Act. I notice another anomaly in the Act, that although by section 70 no mortgage can be valid, if oral, no provision of a similar character is laid down regarding an out and out sale.

The provision regarding the extension of the period of limitation is one which has proved of great advantage to agriculturists, and there would seem to be no good reason why this provision should not extend to non-agriculturists also, as the anomaly of applying different periods of limitations to different classes of debtors will thereby be avoided and one of the most futile causes of complaint against the money-lending class will be removed. As a rule the sawkar does not resort to the Civil Court till his remedy is on the point of being barred by limitation, and

the longer the period of limitation the less necessity for renewing the bond. The Courts would thereby be saved the labour of hearing and deciding those suits which are instituted simply with the object of keeping the bonds alive when there is no hope of recovering anything from the debtors.

IX.—Regarding that portion of the law which depends on the rules for the time being in force promulgated by Government, I am of opinion that some changes therein may be introduced. The time has apparently now arrived when most of the redemption suits on old transactions have been filed. The fees on redemption suits might now be fixed at an uniform rate and one-half of the ordinary fees might be remitted in each of the four districts, as is now done in Satara.

Under the present rules, in suits between R100 and R500 filed within the jurisdiction of a First Class Subordinate Judge half the fees are remitted, but in the case of similar suits filed within the jurisdiction of a Subordinate Judge of the 2nd class, full fees must be paid, unless the parties agree to apply the provisions of Chapter II to the suit. There would seem no good reason for limiting the remission of court-fees where agriculturists are concerned to suits of R500 and R100 respectively; the rule regarding the remission of half institution fees might be made to apply to all suits of whatever amount or value of the description set forth in notification of the Government of India, No. 3203, dated 12th May 1883.

In all cases when a suit is compromised before taking any evidence, it would appear desirable to allow a refund of half the institution fee. This would afford a powerful inducement to parties to compromise at an early stage.

The time has now come, in my opinion, for doing away with the special machinery for administering the Act and delegating the duties under it to the District Judges in each of the four districts on the grounds both of efficiency and economy. In making this suggestion I must not for a moment be thought to overlook the labours of the Honourable Rao Bahadur M. G. Ranade, the present Special Judge, to whose great abilities, judgment and sympathy with the object of the Act much of whatever success has attended its administration is due. Hitherto the Subordinate Judges have had to serve two masters, as it were, the District Judge and Special Judge, and although the friction has been as little as was possible, the system of dual responsibility is unsatisfactory and is not without serious drawback.

In each district it would be necessary to employ one Subordinate Judge of standing and experience and familiar with the working of the Act to inspect and supervise the proceedings of the Subordinate Judges subject to the control of the District Judge. In this same connexion I would refer to the importance of appointing to the four districts those Subordinate Judges only who have had experience in the working of the Act. It frequently happens that as soon as a Subordinate Judge has acquired experience on such matters as the productive power of the land, the value of the produce, the shares of the landlord and the tenant in the net produce and the various customs in the different villages in his taluka, he is transferred to some other district and a new man is appointed, who has to learn all these things before he can become sufficiently expert to check and sift the evidence placed before him.

X.—There are some sections of the Act and some of its provisions which may, I think, with advantage be extended to other classes than agriculturists. Sections 11, 56, 60, and 62 already extend to the whole of British India. The provisions regarding limitation I have referred to above. Section 7, which provides for the compulsory examination of the defendant in all suits under Chapter II, might with advantage be extended to all suits of whatever description, whether the parties are agriculturists or not.

XI.—This question is purely a question of policy. There are no districts with which I am personally acquainted, and I have served as District Judge in Nasik, Khandesh, Ratnagiri, Thana, Kaladgi, Dharwar and Kanara, to which I think the Act ought to be extended either to the agriculturist or any other class.

XII.—The provisions of the Act which can with advantage be incorporated into the Civil Procedure Code are those relating to—

(a) the compulsory examination of defendants (section 7),

(b) granting instalments both before and after the decree (section 15 (b) and (c) and section 20),

(c) some simple and practical application of the system of conciliation.

XIII.—Beyond the changes to which I have alluded above I do not think that any improvements in the Code of Civil Procedure or the constitution and jurisdiction of Civil Courts or in their way of working under the ordinary law have been suggested by the working of the Act.

With regard to the system of fees, I am of opinion that some provision should be made in the Court Fees Act by which parties coming to an agreement before the hearing of evidence shall be entitled to a remission of one-half of the institution fee.

From J. W. WALKER, Esq., District Judge, Ahmednagar, to the Secretary to the Government of Bombay, Judicial Department, No. 263, dated Ahmednagar District Court, the 26th January 1889. No. 43.

I have the honour to submit a report on the working of the Deccan Agriculturists' Relief Act, as called for by Government Resolution No. 2709 of the 25th May 1888.

2. Before proceeding to answer the questions put by Government, I would make the following observations. It is customary to speak of the effect of the Act as a whole, but it is necessary to distinguish between the effect and operation of the Act, first, on a state of things existing when it was passed—the contracts and mutual relations created before the Act,—and, secondly, on the state of things after it was passed—the contracts and relations created after the Act, when its provisions were known. It is also necessary to distinguish between those parts of the Act which have had a wide and real effect from those parts which have been but of little importance for either a good or bad result.

The Act made many alterations in the law both as to existing contracts and as to new contracts after its passing, but the whole practical operation of these alterations, I think, has been in the effect produced on existing contracts. And, next, it introduced many new provisions. The radical alterations of the law which have had the widest effect are these:—

(1) The Act exempted land belonging to agriculturists from being sold except when specifically pledged.

(2) It prevented agriculturists from being arrested and imprisoned in execution of decrees for money.

(3) It compelled the Courts to set aside contracts in deciding the amount due by agriculturists, and it gave power to reduce the rate of interest agreed upon.

(4) It gave the Courts wide powers in granting instalments and in dispossessing mortgagees even before payment of the mortgage debt.

The new provisions are chiefly village registration, conciliation, trial of suits by Village Munsifs, granting of receipts and accounts to agriculturists, extension of the period of limitation, and superintendence and revision by special officers.

3. Many of the alterations of the law and many of the new provisions have had but a subsidiary and unimportant effect. For instance, though the Act purports to be for the relief of the agricultural classes, it includes in Chapter II certain suits concerning non-agriculturists, such as the Subordinate Judges formerly heard in their small cause jurisdiction. As to these suits, practically the only change made by the Act is that they are subject to revision by the Special Judge and his Assistants. I have never heard it suggested that there is any need of revision or that the revision has been of any real value. And it is difficult to see why this class of suits was included, unless to make work for the special officers. Again, the special provisions as to insolvency have admittedly been hardly used at all. Then there are some provisions, such as conciliation and trial of petty suits by Village Munsifs, which may be highly beneficial, but they are not of the essence of the Act when we come to consider its real and general effect, for in many parts there are no Conciliators and no Village Munsifs. I have never heard it suggested that where there are Conciliators and Village Munsifs, there the Act has had a marked effect over and above the effect in other parts.

The new provisions of the Act enumerated above could not of course have any retrospective effect. Before considering the beneficial effects produced by some of them, it is necessary, I think, to emphasize the fact that if they had not been supplemented by the radical alterations of the law given above, there would not have been that complete and violent change which resulted from the Act.

4. In 1880, the year after the Act was passed, suits and applications for execution fell to less than one-half in this district compared with the preceding year or with 1874 and 1875, the last normal years, for after them began years of famine and disturbance.

Before the Act.

Year.	Suits.	Applications for execution.
1874	10,120	19,549
1875	9,630	19,197
1879	7,434	14,792
After the Act.		
1880	3,635	8,600

These figures support the opinion that the main shock of the Act fell on existing contracts. The agriculturists were greatly indebted when the Act was passed, and this was admittedly the only ground for such sweeping alterations of the law so as to affect a previous state of things. Where the agriculturists had not mortgaged their property they were almost completely exempted from payment of debts, for their lands could not be sold and they themselves could not be arrested or imprisoned. Their cattle were generally exempt from attachment under the Civil Procedure Code then in force, and other property the indebted classes had but little of, and they availed themselves of every stratagem in preventing its attachment and sale. Where the agriculturists had mortgaged their property, they were relieved by the setting aside of their contracts and an investigation into the amount of the debt by the wholesale reduction of interest and permission to pay the debt by instalments, and in some cases by possession being given even before the mortgage-debt had been paid off.

It is plain, therefore, that the condition of the agricultural classes was immensely improved by the above alterations of the law, and two facts assisted the effect of those alterations. Standing crops were exempt from attachment till Act XXIII of 1886 was passed in October 1886, and greatest number of redemption suits, and of suits on bonds which sprang up after the Act, were decided on the simple plan of taking half the amount of the last bond as principal and half as interest. It was not till 1887 that the High Court checked this practice, and it became possible for the money-lender to receive something like the sum fairly due him on his mortgage. If from the outset creditors had been allowed to attach standing crops and the Courts had been prevented from guessing at the amount of the debt, the effect of the Act would have been much more circumscribed. Cultivators now complain bitterly of the change which allows their crops to be attached and ask what good their land is to them if they are in debt, as the money-lender can step in and carry off the whole crop except that seized by the Collector for payment of assessment. While creditors, on the other hand, rejoice that after seven years they see a prospect of recovering some of their money by attaching crops or threatening to do so and by a wholesale suppression of accounts, they hope to profit by the High Court decision and receive the full amounts of their bonds executed before the Act. It is not too much to say that the whole history of the Act and its economic effect would have been entirely different if crops could have been attached from the outest and if the Courts had not adopted the "half-principal half-interest" rule.

5. These alterations of the law, however, though they were crushing in their incidence on the money-lenders as to contracts before the Act, had but a limited scope as to contracts after the Act, for the money-lenders were then able to provide against them by various devices. They refused to lend money without adequate security and required either a mortgage or a conditional sale, while the new system of village-registration enabled them generally to secure that the amount of the bond should not in future be successfully disputed. And the Courts, as a fact, have not used their extraordinary powers of setting aside contracts and reducing interest so as to influence to any great extent the dealings between the parties. I is hardly necessary to dwell on this point at any length, as the complaints of the money-lenders are confined to old contracts before the Act. As to new contracts they no doubt would like to be able to arrest the agriculturists and sell his land as before, but they are quite satisfied that sections 12, 13 and 14 of the Act, which enable a Court to set aside the contract and rate of interest agreed on and take accounts, will affect them but little. And the suits which have been decided as to contracts since the Act show that the Courts have made next to no use of these powers. The only power which has been much used is that of granting instalments.

6. It appears, therefore, that the main effect of the Act has been by alterations of the law applied to pre-existing contracts, and that this effect has necessarily been to the great

benefit of the agricultural class, and to a great extent at the expense of the money-lending class. But it also appears that these alterations have had but little effect on contracts since the Act. As the Subordinate Judge Mr. Wagle puts it, "at best the Act gives temporary relief only. If in operation for a long period, it has a tendency to restore the balance. This circumstance renders it unfit to be a permanent measure of relief to indebtedness." The Act may be beneficial if applied with retrospective effect to a state of society which calls for some drastic measures, but in its present form it is open to many objections. Granting that the Act has effected all the improvement which its most ardent supporters may allege, the above considerations suggest the question whether it is really necessary now to retain, as to contracts since the Act, such powers as the Act, possibly with advantage, conferred as to pre-existing contracts. Is it really necessary to continue powers entirely opposed to the ordinary law and its development, such as the power to set aside contracts without proof of force or fraud, or that it was an unconscionable bargain the power to reduce interest deliberately agreed to be paid, the power to oust mortgagees in possession before payment of the debt, and the power to refer suits to arbitration where there is not enough evidence? The exercise of such powers must produce the utmost uncertainty of decision and dissatisfaction to at least one side; it must often depend on the fancy of the individual Judge, and it must react on the Judges themselves.

The only class of agriculturists who were not benefited by the Act were those whose lands had been sold either by private sale or Court-sale, often for a most inadequate price. It is a striking fact that while the Act treats agriculturists as persons incapable* of managing their own affairs, as to bonds and mortgages, both before and after the Act, it makes no pro visions to assist them as to sales, if we except the special rule as to registration, which as to sales of immoveable property is not important, as such sales were generally registered before the Act.

The above powers, extraordinary as compared with the general law, are not of much use as I have said, as to contracts since the Act, but their retention is disquieting and their ultimate effect, I think, is to aggravate the disadvantages of the very class for whose benefit the Act is intended. The mere knowledge that contracts duly executed and registered under the Act may be summarily set aside when the dispute goes into Court must increase the difficulty agriculturists have in borrowing for their real needs and must raise the rate of interest they have to pay. Even when money is borrowed on a mortgage, uncertainty as to what rate of interest will really be allowed by the Court must eventually raise the rate of interest exactly as bad security would do. No law can enable a person to borrow at less than the market rate; and if the Courts were to attempt generally to interfere with the rates of interest in contracts made under the Act, there would only be an additional incentive to money-lenders to require sale-deeds. It is feared by many that, as it is, sale-deeds have increased under the Act.

A succession of good seasons since the passing of the Act has materially benefited the agriculturist class in this district. Hardly any suits now remain to be brought for redemption of lands or on bonds passed before the Act. And I would therefore urge that the Act has now done all that could be done as to old contracts before it was passed, and that it is inexpedien to continue the extraordinary powers conferred on the Courts by it as to contracts since it was passed. The ordinary law has become perhaps too rigid in its application to agriculturists and other backward classes of the community. I would submit that in place of the existing Act there should be a new Act, incorporating such of the new provisions as are generally accepted as beneficial and making such changes in the ordinary law as experience shows are required. As indeed the Deccan cultivator has not a monopoly of ignorance and indebtedness, and unfortunately a scanty and uncertain rainfall is also not confined to the Deccan, such an Act might well be made applicable generally to all cultivators in British India. But at any rate I would strongly urge that it is highly undesirable to continue all the extraordinary powers conferred by the Act as to contracts since the passing of the Act. The object of the continuing of these powers even as to contracts made under the Act would seem to have been to enable the Courts to do "natural and substantial justice;" but such justice dispensed as it were at the village gate, can hardly co-exist with stamp and registration and limitation laws rigidly enforced. For Sections 12, 13 and 14 there may now well be substituted such new provisions, based on the ordinary law, as would give the Courts more ample powers in relieving from unfair and unconscionable bargains.

7. Of the changes in the law, the exemption of an agriculturist's land from sale unless specifically mortgaged and his freedom from arrest on a money decree are the most important I think that experience shows that the practical curtailing of the agriculturist's power of

borrowing, which result is beneficial exactly as the substitution of cash for credit transactions in large cities in modern times, has reduced prices and checked extravagance. The cultivator, if he cannot borrow except by mortgaging his land, is compelled to reduce his expenditure where it is not really required and is made to think twice before he gets an advance. The comparative loss of credit resulting from the Act is generally held to have been beneficial to the cultivating class.

And as to the new provisions, the system of village registration is, I think, most important, and it has in practice, as it ought to do in theory, materially protected the interests of agriculturists.

But the recent amendment of the law which allows standing crops to be attached nullifies to a large extent the benefit to agriculturists from the exemption of their land from sale. The expenses of the attachment fall on the agriculturist, and he does not even recover the cost of the seed grain. As suggested in my answer to Question VIII, a part of the crop should be exempt from attachment. Section 266 of the Civil Procedure Code, clause (*b*), as to the exemption from attachment of seed grain, does not sufficiently protect the agriculturist when his standing crop is attached.

8. I have only one more observation to make as to the working of the Act. Five new Courts were opened in this district so as to provide a Court in each taluka, and several Village Munsifs' Courts were opened. In some cases the Subordinate Judges have not enough work to occupy them fully, and the existing arrangements are most unnecessarily expensive to the State.

The placing of Courts in villages where there is not enough work for at least two pleaders is, I find, objected to by the agriculturist classes themselves. In some Courts in this district there is only one resident pleader, and parties complain that they are put to great expense by having to bring pleaders from other Courts. Though the Act itself originally prohibited pleaders from appearing at all in certain classes of suits, my own experience is that parties attach great importance to the presence of pleaders and the facility of procuring their services, while the disposal of suits is most unduly delayed in the absence of pleaders by the difficulty of eliciting from ignorant defendants their real case. In their eagerness not to commit themselves by any admissions to the Court, defendants often suppress material facts which would tell in their favour.

The duties of superintendence and revision under the Act where made over to the Special Judge and his Assistants, and the District Judge had thus no interest given him in the working of the Act, and in fact he knew nothing of it except in so far as he had to apply the law to appeals before him. It seems to me that the supervision of Conciliators, if they be retained, could with great advantage be made over to the Collector, and the other duties now performed by the Special Judge and his Assistants could equally well be done by the District Judge and the Assistant or Subordinate Judge with appellate powers. The result would be a great saving, and the revision of suits could be much more easily and conveniently carried out.

9. I beg to forward the reports of the Subordinate Judges of Parner and Shevgaon, as they have been written with care and discuss many of the questions raised from practical experience of the working of the Act.

My answers to the questions put by Government are herewith appended.

Appendix to Ahmednagar District Judge's Report No. 263, dated 26th January 1889.

Answers to questions put in paragraph 6 of Government Resolution No. 2709 of 25th May 1888.

(i) The effect of the working of the ordinary law is to give an undue advantage to the creditor, and of the Act to give an undue advantage to the agriculturist debtor. As applied to contracts existing when the Act was passed, the Act has in some cases enabled substantial justice to be done; but as to contracts since it was passed, there is practically no difference between the Act and the ordinary law so far as regards the actual disposal of suits.

(ii) There is far less certainty under the Act. All pleaders agree that they are quite unable to give any idea to their clients what the decision will be under the Act. Under the ordinary law it is easy to calculate the amount due on a bond or to predict the result of a suit for redemption, but under the Act, as one of the Subordinate Judges says, there is a 'vast field of disputes' opened up. The initial difficulty often is whether the party will be held to be an agriculturist or not. If the defendant unexpectedly succeeds in being given the status of an agriculturist, the suit may fail altogether, as by its being on an unregistered bond or *káhta*,

There is the uncertainty, especially where the Act is applied to contracts before its passing, as to what amount will be allowed as the principal and what rate of interest will be given. Then there is the uncertainty arising out of the great diversity in the views of the individual Judge, and a further uncertainty from the Act requiring a decision by the Court on many points, where it is almost impossible that there can be adequate evidence, such as are referred to in Sections 12 and 13 of the Act. In mortgage suits, under the ordinary contract in the Mofussil, profits are usually to be taken in lieu of interest. Where this contract is set aside under the Act, there is the uncertainty as to what the profits will be estimated at. It is a common case where the lower Court allows the agriculturist to recover possession without any payment and the appellate Court finds a considerable sum due or, *vice versâ*.

(iii) Suits under the Act take a longer time for decision, and a longer period is required for the effectual enforcement of decrees. There is first the delay in procuring a conciliator's certificate. Then the defendant has to be personally examined, and often more than one warrant has to be issued before his attendance is secured. Next, though the defendant may be summoned for the final disposal, as a rule he never brings his witnesses, and time has to be given him. Then there is the delay caused by setting aside the contracts and examining accounts and the 'history' of the suit, and in redemption suits by the appointment of a Commissioner to estimate profits. After the decree has been obtained, there is delay through the decree allowing instalments spreading over a number of years, and the enforcement of the decree is also impeded by the agriculturist's land being exempt from attachment and sale on money decrees and by the agriculturist himself being free from arrest.

(iv) The greater delay and want of certainty under the Act, the enforced attendance of parties and the obstacles placed by the Act to the effectual enforcement of decrees, all tend to harass at least one party to the suit. On the whole I think the compulsory attendance of the defendant is a good provision, but there is no doubt that in many cases they complain, as they are dragged away from their fields when they have really nothing to say.

(v) The remission of fees in redemption suits and the reduction of fees in other suits in favour of agriculturists have greatly assisted them, but there appears to be no longer any sufficient reason for making any distinction between agriculturists and other classes of the community. All the Subordinate Judges report that redemption suits are nearly over now. The raising of the fees would eventually fall on the indebted classes for whose benefit the Act was specially passed, but whether the existing court-fees are too high in the case of agriculturists or not, is a large question. My own opinion is that the system of court-fees might now be generally revised and reduced with advantage.

(vi) The provisions of the Act taken with the remission of fees in redemption suits did encourage many righteous suits which would not otherwise have been brought. A few speculative suits were brought with the help of the village accountant, but they were not many in this district.

(vii) The effect of the Act as applied to pre-existing contracts has undoubtedly been to improve greatly the material condition of agriculturists. Both through the provisions of the Act and the mode in which it was worked, the practical effect often was to reduce mortgage debts by about one-half, and in the case of all other debts to make repayment optional at the will of the agriculturist. The general belief is that the money-lending class have suffered severely, and that many of the petty class of money-lenders who borrowed from capitalists to lend to cultivators have been ruined. I am informed that in many instances such men have left the villages. As to the extent to which agriculturists have been benefited, there is much difference of opinion, but I have no statistics, and this subject will be fully dealt with by the Special Officer. As to the taking up of new land and the regular payment of assessment, there can be no doubt that the succession of good seasons since the passing of Act has greatly contributed to the result.

With respect to the moral effect of the Act, the result must, in my opinion, be injurious though perhaps sufficient time has not yet elapsed for it to be clearly distinguished. Under the general law, the moral is plain, that a man will eventually have to abide the consequences of his own acts. Under the Act, the moral is often that a man may do any number of acts injurious to himself, but the Courts will try and help him out of his difficulties. The Deccan agriculturist has many good qualities, and, as one of the Subordinate Judges remarks, it is still one of his characteristics that he wishes as far as possible to pay his own and his ancestral debts, but the question is how long he will resist the evil effects produced by contracts deliberately made being thrust aside by the Courts.

Some of the Subordinate Judges say they already notice an increased resort to trickery and stratagems. Some of the vices developed by the Act may be briefly noticed.

Money-lenders do not always give receipts for payments, as required by the Act. "And the complaint being general," says one Subordinate Judge, " agriculturists in almost every case plead payments, saying that the money-lender refused to give them receipts for the same. And then they call a number of their friends and relatives to swear to the alleged payments. Hard swearing has thus become the order of the day. * * It is well nigh impossible to secure convictions before Criminal Courts " for giving such false evidence. There is a general eagerness to attain the status of an 'agriculturist,' however little the real position may accord therewith. But in some cases, owing to the period of limitation having been extended in the case of agriculturists, a false defence is set up that the person is not an agriculturist. To avoid the operation of the Act, sham transactions are gone into before the Village Registrar by needy debtors colluding with the money-lender to make the renewal of a debt appear as a genuine cash advance. In a case before me, the defendant pleaded that he had not received the cash amount set out in the bond, but had only received a sum nominally before the Registrar and had then returned it, and it appeared that such a transaction was what had really occurred.

Documents in which there purports to have been an out-and-out sale, but as to which the agriculturist alleges that the money-lender had promised to return the land on receiving a certain amount, are increasing. And suits in such cases give rise to much difficulty and are most uncertain in their result, as judged by the decisions in the various Courts.

There have been cases in which the money-lender appeared to have made fictitious entries of payments or advances to debtors, to enable him to make magnanimous reductions before the conciliator; and the general complaint is that money-lenders now destroy or suppress their accounts. One other point, which has a demoralising effect, may be added. In several instances, the Courts have allowed a speculative purchaser at a court-sale for a nominal sum to redeem lands long in the possession of the mortgagee for much less than the sum which would have had to be paid under the general law. I myself have had cases in which one money-lender has succeeded in getting himself declared an agriculturist and recovering land, which he had bought at a court-sale from a rival money-lender, a mortgagee in possession, without paying the full amount which would have been found due if the original contract had been enforced. It is probable that, in a large number of redemption suits, the original contract has been set aside under the Deccan Act in favour wholly or partially of a stranger.

The personal relations between creditors and debtors were greatly strained after the passing of the Act; but, as noticed above, the money-lenders have gradually recovered their ground. Before the Act, they had it all their own way; after the Act the agriculturists were masters of the position; but after the first effects of the Act on pre-existing contracts had passed away, and especially since creditors have been able to attach crops and the Courts have refrained from guessing at the principal debt, the money-lenders have rapidly regained their ground and influence.

(viii) The Act in its present form is objectionable. Its main operation is, by retrospective effect, on contracts existing when it was passed. Such effect is itself injurious and opposed to public policy, and the only justification is the necessity of the case. For permanent retention as a provision to assist a backward class of the community, there should be a new Act incorporating such of the alterations in the law and new provisions made by the existing Act as are ultimately decided by the Legislature to be beneficial. The power given by the existing Act to set aside contracts and reduce interest, without any principal or standard for the guidance of the Courts, should be discontinued. Where contracts have been deliberately entered into since the Act before officers appointed under the Act and in the mode provided by the Act, there is no necessity whatever to require the Courts to set aside those contracts without proof of force or fraud or undue influence. If it is held that the existing law is defective, in as much as it does not give the Courts sufficient authority to interfere in such cases and to set aside unconscionable bargains, the ordinary law should itself be amended or a new Act should embody the principles on which a Civil Court can give relief by setting aside a contract. What provisions newly introduced by the Act are beneficial, will be considered in the answer to question XI.

The power to attach standing crops given by the last amendment will effectually remove the benefit of the provision, that land cannot ordinarily be sold. One-half the standing crop, after deducting the part attached or required for payment of assessment should be exempt from attachment, to prevent lands going out of cultivation and to enable the agriculturist to recover the actual cost of cultivation.

(ix) It is quite unnecessary, in my opinion, to continue the offices of Special Judge and Subordinate Judges and his Assistants. These appointments may have been necessary when

the Act was first introduced, but are quite useless now. The supervision of conciliators could, I think, be more effectually carried out by the Collector and his Assistants; but if not, it would be preferable to abolish the system of conciliation altogether, and introduce the other existing plan of a refund of court-fees. The conciliation system is only in force in six out of eleven talukas in this district, and I have not heard that where it is in force there has been any better result than in the other talukas.

The system of revision is most cumbrous and expensive, and has no decided advantages. At present not only are petty suits revised when the parties make an application when practically revision only differs from an appeal by no stamp duties being required from the aggrieved party, but the Special Judges go on tour and revise the records of all or most of the petty suits. When an application for review is made it is referred by the Special Judge to an Assistant; the Assistant submits a report, and then the Judge passes an order. Two Judges, therefore, have to go through the case, and there is a waste of power. The general principle of law is that in petty suits and trials there should be no appeal and ordinarily no revision. If an agriculturist is summarily tried and ordered to be imprisoned for three months or to be fined R200, there is no appeal and ordinarily no revision. But if there is a decree against him for R5, as a petty debt, there is an elaborate system of revision, though he can neither be arrested himself nor have his land sold in satisfaction.

I am unable to find any reason why suits concerning non-agriculturists were included in the Act, unless for the sake of giving sufficient work to the revising Special and Subordinate Judges. This class of suits should certainly now be removed from the operation of the Act, and the Subordinate Judges have their Small Cause powers restored to them at least as to such suits. But, in my opinion, it would be far better to restore such powers as to agriculturists' suits also, and if it was considered absolutely essential that there should be greater powers of revision than exist under the Civil Procedure Code, powers of revision should be given to the District Judges.

The District Judges have had no inducement whatever to interest themselves in the working of the Act. They could have carried out the duties imposed on the Special Judge with the help of an Assistant or Subordinate Judge from the outset with far less cost to the State, and Government would then have had the benefit of the opinions of four separate officers on the working of the Act instead of the opinion of only one officer, who from his very position was more or less bound to support the Act as a whole. It was probably considered necessary to have some officer who should start with an enthusiasm for the Act, and so help it in working successfully, but no reason now appears why so expensive a machinery should be retained.

Five new Courts were opened in this district, because it was held necessary that there should be a Court in each taluka. Lately I had occasion to report to Government that there was very little work at Akola, and that the Subordinate Judge had simply to do nothing for most of his time. The Subordinate Judge of Sangamner was then ordered to sit from time to time at Akola. That reduced the expense by the salary of the Subordinate Judge, but an establishment has still to be kept there. Akola is only 14 miles from Sangamner, with a good made road between, and it is very doubtful whether it is worth while for the Subordinate Judge to sit there. As far as I am informed, there were no complaints in this district, before the five new Courts were opened, that the Courts were too far from the people in particular parts.

Since the operation of the Act on old contracts, and especially on old mortgage deeds, is now practically over, the work in the Subordinate Courts is much reduced and I am convinced that some of the Subordinate Judges have not enough work to do in this district.

As to conciliators and Village Munsifs, I feel myself incapable of giving any opinion. The Subordinate Judges are divided in opinion, and I have no personal knowledge of the working myself. The information given by the Subordinate Judges is so meagre, that I am unable to form any clear opinion. Some Subordinate Judges and persons I have consulted consider that there is not a sufficient supply of fit persons qualified to act as Conciliators and Village Munsifs, and that some of the persons appointed have not worked satisfactorily. As far as I can judge, the system of a refund of half the institution fees, if the suit is settled at the first hearing, which is in force in 5 out of 11 talukas, works quite as well as the conciliation system and has not the drawback of requiring constant supervision.

As to Village Munsifs, I see no objection to suits being heard by them where qualified persons can be found; but I see no particular advantage. The Subordinate Judges could dispose of the suits in their former Small Cause jurisdiction readily and with, I think, greater advantage and satisfaction to the public.

As to Village Registrars, some of the Subordinate Judges think that the men who are selected are not sufficiently independent and are incapable of effectually protecting the interest

of ignorant cultivators. On this point also I have no personal knowledge, and neither the reports of the Subordinate Judges nor the cases in my Court give sufficient grounds for an opinion. There is, however, a general opinion, that registration for petty sums under R20 is unnecessary, and that a document which is entirely written by the obligor and signed by him need not be executed before the Village Registrar.

There is always a difficulty, in small villages, in getting persons who can write and attest documents, and it is said that it would often be easier to get a document registered before the Sub-Register at the taluka town than before the Village Registrar. The advantages of village registration, however, are very great, and I look on this part of the Act as one of the most important and useful. A similar system has long been advocated for Gujarat, where the ordinary suit in the Courts is whether a particular bond was or was not executed by the person it purports to have been executed by, and it is only a consideration of the cost of the measure which has hitherto prevented its adoption there.

(x) It is not desirable to extend the Act as it stands to other classes than agriculturists in this district. There is no reason why poor labourers and artisans should not be protected as well as cultivators, but no need is shown for extending an Act of such a character to them. If the Act as it is was applied to them, their credit would be wholly destroyed; as, unlike agriculturists, they have no land to fall back on, and they would ultimately suffer. But parts of an amended Act, such as I have suggested, might well be made to apply to them, if the ordinary law was not itself improved. The portions of the Act which might with advantage be extended to the labouring and artisan classes are stated in the answer to question XI.

(xi) The Act in its present form is quite unfit to be extended to any other district, or even to be retained permanently in the districts where it is in force. The only justification for its extension to other districts with effect on already existing contracts would be a pressing necessity caused by great disorders. As to contracts made after the Act, the Act, as stated above, confers many extraordinary powers; but these are little used in parctice by the Courts: if generally used, they would merely serve to add to the difficulties agriculturists have in borrowing even for a proper purpose, and raise the rate of interest.

Those parts of the Act should be extended to agriculturists in other districts which

(1) prevent the sale of land unless specifically mortgaged;

(2) exempt the agriculturist from arrest in execution of a decree for money;

(3) acquire village registration;

(4) give power to the Courts to order repayment by instalments;

(5) require the defendant to be examined; and

(6) extend the period of limitation.

Chapter IX, as to receipts and statements of account, should also be extended.

The following modifications would, I think, be advisable:—

As to (1), one-half the standing crop after deducting the part attached or required for payment of assessment, should also be exempt from attachment, as stated in the answer to question VIII.

As to (3), village registration, registration should be optional either before the village Registrar, or the Sub-Registrar; but there should be no compulsory registration as to petty sums under R20, nor where the document is wholly written and signed by the obligor.

As to (5), attendance and examination of the defendant, the presence of the defendant should not be insisted on if the defendant signs the summons with his own hand or appears by pleader, or the Court is satisfied that he is purposely keeping out of the way.

These parts of the Act might with advantage be also extended to the labouring and artisan classes, so far as they are applicable.

Either the system of conciliation, or the remission of half the institution fees on a settlement of the suit at the first hearing, should also be extended.

(xii & xiii) The only suggestion I have to make is, that in all suits half the institution fees should be refunded if the parties come to a settlement at or before the first hearing.

No. 44. From S. TAGORE, Esq., District Judge, Sholapur-Bijapur, to the Secretary to the Government of Bombay, Judicial Department,—No. 2450, dated Camp Sholapur, the 30th August 1888.

With reference to Government Resolution (Judicial Department) No. 2709, dated the 25th May 1888, I have the honour to submit the accompanying answers to the questions

proposed therein relative to the effect of the working of the Deccan Agriculturists' Relief Act, and the desirability of extending the operation of that Act, or certain provisions thereof, to other districts than those in which it is now in force.

I.

The Relief Act is an attempt to preserve the Deccan peasant from well-known economic laws. If by substantial justice be meant benefiting the rayat at the expense of the sawkars, then it must be admitted that substantial justice has been attained. The Act is admittedly one-sided, and while it professes to deal out justice to the agriculturist-debtors shows little consideration to the just demands of their creditors. If by substantial justice be meant a respect for the pledges given by one party to the other for the finality of accounts once closed with mutual consent and for complete freedom of contract, unquestionably the special and class legislation has not been able to attain it.

II.

In most of the cases governed by the Relief Act the probable issue on given facts cannot be predicted with as much certainty as in cases governed by the ordinary law. For instance, given a suit on a bond for R100 at 18 per cent., the loan outstanding for five years. Under the ordinary law the result can be predicted almost to the letter. Under the Relief Act, the Judge is bound, *inter alia*, to enquire into the history of the debt and reduce the stipulated rate of interest if he finds it exorbitant. The investigation involves diverse points of fact dependent on the evidence the parties choose to offer. The same remark applies to redemption and foreclosure suits.

III.

The duration of suits is longer under the Relief Act than under the ordinary law. The reason is not far to seek, for the procedure prescribed by the Act tends to convert what would in all probability, be an *ex-parte* or an admitted claim into a contested one. With regard to the execution of decrees, I think a decree-holder is greatly impeded in getting immediate relief given him under the decree. Some of the sources from which decrees under the ordinary law are satisfied not being available to the holders of decrees against agriculturists, their decrees in many cases virtually remain dead letters. Add to this, the practice of allowing instalments in mortgage decrees which often extend over ten or twelve years. I do not consider that as regards either the duration of suits or the time taken up in effectually enforcing decrees the Relief Act compares favourably with the ordinary law.

IV.

The number of Subordinate Courts has increased since the passing of the Relief Act, and I believe, greater convenience has been secured by the Courts being placed as near as practicable to the litigant parties. The procedure the Act prescribes for trying the suits specified in it and the conciliation system it embodies, are also calculated to secure the attainment of just decrees and effectual execution at a minimum of harassment and loss of time to the parties.

V.

Accepting the system of differential fees now in force, it must be admitted that the system greatly secures economy for the agriculturists. They are now required to pay court-fees on the value of the subject-matter of the suit, only half of what they would have to pay under the ordinary law. The general revenue, however, has been reduced in proportion. If the reduction be made all round, there would result greater loss of revenue and corresponding gain to the people.

VI.

The system of the Deccan Agriculturists' Relief Act has induced parties to institute many righteous suits which would otherwise have been suppressed; but it has, at the same time, encouraged the institution of unjust or speculative suit. This was brought so forcibly to the notice of Dr. Pollen, the Special Judge, that in his report for 1884 he recommended the cancellation of the fiscal rule which exempted redemption suits from court-fees in the Satara District. As a safeguard against similar practices, it would be well, if not to raise the fee in redemption suits to the ordinary level, at least to enact a provision, like the one which obtain in the case of a pauper under Section 412 of the Civil Procedure Code, requiring an unsuccessful plaintiff to pay the court-fees which would have been paid by him if he had not been permitted to sue as an agriculturist.

VII.

It is perhaps premature to enquire whether an improvement in the material condition of the rayat has taken place. The system of relief in question has been in force for less than a decade. It has not yet been subjected to the straits of a famine. One thing is certain, that the agricultural classes have lost their credit with their sawkars. If you increase the risks of the money-lender you intensify the hardships of the borrower. The rayats now find it extremely difficult to get loans, and to them loans are essential in order to buy seed and food and to meet the Government assessment which must be paid punctually. The sawkars have become chary of investing their money in mortgages; and a poor agriculturist, who cannot do without a sawkar, is therefore compelled to sell his property to raise the money. Between 1884 and 1886 sales of immoveable property have increased from 8,833 to 9,661. There are no signs of individual energy or enterprize. The personal relations between the debtor and creditor are getting strained. There is a general impression among the cultivators that Government has taken them under its special protection, and they find themselves armed with a law made for their special protection. This state of things is certainly calculated to keep the rayats and sawkars at arms length.

VIII.

I am of opinion that the Act could be made superior to the ordinary law if some of its provisions were made of general operation. The compulsory examination of defendant, prohibition to file written statements in certain cases except with the permission of the Court, finality given to decisions of the Second Class Subordinate Judges and First Class Subordinate Judges up to R100 and 500, respectively, provisions of Section 18 as to payment of money in Court, extended power to grant instalments, provisions as to Village Munsifs and conciliation agency, provisions as to compulsory registration and as to extension of the limitation period—all these are very beneficial provisions of the Act which may with advantage be made applicable to all classes of suits and all classes of people, whether agriculturists or otherwise. Certain other provisions are intended solely for the protection of indebted agriculturists, such as the provisions of Sections 12—14, the exemption of property and person of the debtor from attachment and arrest, etc. If it be considered expedient to retain these provisions, I would suggest that the definition of the term 'agriculturist' be amended so as to restrict its meaning to genuine cultivators. Under the definition as given at present, many debtors are tempted to put forward false defences as agriculturists who are not really entitled to the benefit of the Act.

IX.

The changes in the working of the Act that I propose, regard being had to economy and efficiency, are :—

1. The revision work, instead of being done by the Special Judge, be left to the District Judges. This would ensure economy without sacrificing efficiency.
2. Withdrawal of non-agriculturist cases that are now governed by Chapter II of the Act from its jurisdiction and treatment of them as ordinary small causes.
3. Selection of a better class of conciliators.
4. Enlargement of pecuniary jurisdiction of Village Munsifs in cases where men of legal attainments could be secured.

X.

The provisions of Chapter II as to compulsory examination of the defendant, and as to finality of decisions passed in suits under certain pecuniary limit, apply to *other* classes than agriculturists in the districts in which the Act is in operation; and, as remarked by officers entrusted with the administration of the Act they have worked beneficially by reducing the percentage of *ex-parte* decrees. The Village Munsifs' chapter also applies to non-agriculturists, and is found to work well.

The following provisions of the Act may be made applicable to other classes than agriculturists in the four Deccan Districts *without* modification :—

(1) Conciliation chapter.
(2) Extension of limitation.
(3) Payment into Court under Section 18.
(4) Power to grant instalments.
(5) Provisions as to receipts and statements of account.

XI.

It is not desirable to extend the Act to other districts without modifications. The provisions of Chapter II, Section 18, as to payment of money into Court, power to grant instalments, the chapter on conciliation, the chapter on Village Munsifs, the chapter on receipts and statement of account, the extension of the limitation period in bond suits,—may with advantage be extended to agriculturists and non-agriculturists in other districts.

XII AND XIII.

The particular provisions referred to in my answers to questions VIII, X and XI may with advantage be adopted into the general system of Civil Procedure. The changes proposed above indicate, with sufficient clearness, what improvements it is desirable to effect in the constitution and jurisdiction of Civil Courts and in their way of working under the ordinary law. As regards the system of fees, I am of opinion that agriculturists are not the only class of people who require relief against heavy judicial costs; but the tax on justice presses severely against all classes of litigants, and I would therefore recommend a general reduction of stamps and court-fees.

S. TAGORE,
District Judge.

Extract of a demi-official from Mr. E. M. H. Fulton, C. S. (on leave), dated 11th February 1889. No. 45.

2. Excepting for 6 weeks at Poona and for 6 weeks at Ahmednagar I have never served as a judge in any of the four Deccan districts, and am, therefore, unable to send categorical replies to the various questions contained in paragraph 6 of the Resolution. But I venture to recommend the extension to the whole Presidency of Sections 12 to 18 and Section 73.

3. I think that in regard to all debtors, other than person engaged in trade or commerce, the Courts ought to have power to go behind the bond and determine the sum justly due. At present, if execution of a bond is proved, the Court is obliged to enforce it, unless the debtor is able to prove that it is void for want of consideration or that it has been extorted by coercion, undue influence, fraud or misrepretentation. And although great numbers of bonds appear exceedingly harsh and unfair in their conditions and the consideration recited frequently different from the real consideration, it is very seldom that the unfortunate debtor can prove circumstances to invalidate the transaction. It is true that the High Court has in certain cases treated the extortionate nature of bonds as a ground for presuming that they had been obtained by fraud or undue influence, and occasionally certain conditions are set aside as being in the nature of a penalty. But the operation of these methods of relief is very uncertain. Judges, while highly dissatisfied with the terms of an agreement, often feel conscientious difficulties in holding it proved to be voidable for want of free consent; and the law on the subject of "penalties" is rather obscure. The decisions on the question as to what constitutes a penalty are conflicting and are based on such subtle distinctions that it appears to depend rather on technical errors of phraseology than on anything else, whether the terms of an agreement are valid or otherwise.

4. I think that in India the ordinary class of debtors, who borrow for their own private needs are so improvident and reckless that they are willing to agree to almost any terms for the sake of obtaining a little ready money, and that the Courts ought to have the power to decree payment of such sum only as appears to be fairly due. Within my own experience I have come across many bonds which I should like to have been able to cut down, but which I could not interfere with in the existing state of the law. In theory, no doubt, it seems right that persons should be bound to pay whatever they have promised to pay, but a rigid rule of this sort does not appear to harmonize with the customs of the country. The strict enforcement of bonds may be desirable from an educational point of view in order to teach precision; but the lesson can only be learnt at the cost of much suffering to the improvident persons who have signed bonds in the mistaken belief that they do not mean quite all they say and are never to be enforced in full. So long as the parties are able to keep out of Court the terms are seldom exacted to the letter. Whilst the debtor and creditor remain on good terms, and the former is dependent on the latter and continues to pay him as much as he is able, the creditor does not press him unduly. But if the debtor attempts to free himself from thraldom either by resorting to another creditor or otherwise, a dispute ensues, and recourse is had to the Court to enforce submission. In such a case, if owing to some friendly interposition the quarrel can be referred to arbitration, the arbitrators invariably reduce the

claim. When I was Judge of Belgaum I had charge of some large estates (belonging to various minors) in which my predecessor, Mr. Shaw, had with the aid of arbitrators compromised most of the claims. These compromises were effected with large reductions on the amounts secured by the bonds, and the results were very different from what they would have been if the cases had come into Court.

5. It appears, then, to me that in a matter of this kind the Court should follow the custom. It cannot be said that justice requires them to decree payment of sums which no arbitrator would award. Yet I believe that in the great majority of disputes between creditors and debtors the decision of arbitrators and the decision of the Court would be totally different. The former would cut down the bond—perhaps very arbitrarily—on the ground that by custom it was not usual to exact the whole sum claimed : while the latter would have to decree the amount of the bond. It seems undesirable that this state of things should continue. I do not dispute that there are great advantages in precision and certainty ; but I submit that, until the character of the people changes so that they become more exact in their dealings, the law should not be too rigid.

6. In England the Courts are specially favourable to seamen, and often relief them from the effect of their own contracts, on the ground that they are, " as a class of men, loose, and unthinking, who will almost for nothing part with what they have acquired " (Storey's Equity of Jurisprudence, Section 332). In India much the same may be said of many classes of debtors, and the Courts ought, I think, to be allowed some latitude in dealing with them.

7. For this purpose Sections 12 to 18 of the Deccan Relief Act appear effective so far as agriculturists are concerned, and I think they should be applied to the whole Presidency, including Sind. My recollections of the litigation in Shikárpur, where I was Judge for 20 months, leads me to believe that the debtors are as reckless in that province as elsewhere

8. My remarks, it is true, are not confined to agriculturists, and I doubt not that there are other classes of debtors who would be the better of some protection. I have always understood that in the town of Bombay the domestic servants are very much in power of the Márwáris ; and the poor generally are very improvident. But the Deccan Relief Act only applies to agriculturists, and the more fact that its extension will not benefit all classes who require relief, is no ground for not relieving the class to whom it can at all be made applicable. Eventually perhaps similar relief may be given to other debtors, but such a measure would require legislation, and need not be further discussed in dealing with this reference.

9. As regards the other sections of the Act, I do not myself think there is much need for their extension. The officers who have studied its working will, however, be in a better position than I am to speak on this point. So far as my experience goes, the ordinary machinery of the Courts is fairly effective, and I think it should be disturbed as little as possible. Similarly, I see no occasion to alter the registration or limitation laws or the provisions of the ordinary law about insolvency, appeal (except by the extension of Section 73) or Small Cause Court jurisdiction. Conciliation, I know, is largely resorted to in the Deccan, but I am not in a position to say how far it is found really useful.

10. In my humble opinion, the main object should be to enlarge the powers of the Courts so as to enable them to go behind the bonds and thereby give decrees more in harmony with the customs of the country, but in other respects I should be inclined to leave unaltered the ordinary judicial procedure.

No. 46. From—M. B. BAKER, Esq., District Judge, Násik, to the Secretary to the Government of Bombay, Judicial Department,—No. 68, dated the District Court of Nasik, 22nd January 1889.

I have the honour to acknowledge the receipt of the Acting Under Secretary Mr. Heaton's letter No. 3091, dated the 13th June last, inviting my opinion on the points enumerated in paragraph 6 of Government Resolution, Judicial Department, No. 2709, dated 25th May 1888.

2. As I have had only a few months' experience of the working of the Deccan Agriculturists' Relief Act and that some years ago, I do not feel competent to give any opinion on points I to X. Any remarks I might offer would be necessarily based upon facts and figures which are already before Government. I would, however, remark that, in my opinion, it is doubtful whether any sound conclusions as to the effects of the Act can, as yet, be drawn. The test of such an exceptional piece of legislation would be a famine or general scarcity in the districts under the Act. Since the introduction of the Act the harvests, as a rule, have not been bad, at any rate there has not been such a failure of crops as would press hardly on the rayats. If the Act has been successful, the rayats would, in a bad season, be able to tide

over the difficulty without either applying to Government for remissions, or having to borrow from sawkars at ruinous rates of interest. In looking at the effects of the Act, especial notice should be taken of the nature of litigation. If in the districts under the Act, the number of simple bonds has decreased, while the number of deeds of sale or instruments of mortgage has increased, I should have no hesitation in saying that the Act had failed to attain the object for which it was passed; for this would show that the credit of the rayats has been seriously affected.

3. With regard to this district, I am of opinion that the Deccan Agriculturists' Relief Act should not be introduced. There is undoubtedly much indebtedness in the district, but I do not think the agricultural are worse off than the other classes. Parts of the disqrict are dependent entirely upon an uncertain rainfall, but in the parts which are irrigated, I think that the indebtedness of the rayats is due to want of thrift. I do not think that the assessment question is any factor in the problem, for a man's holding may in many cases be too small to support him and his family even if he held it rent-free. In this district there are a few large sawkars in some of the principal towns who deal exclusively with the smaller sawkars in the villages. The amount of litigation in 1887 was, I believe, increased solely by the fear that the Deccan Agriculturists' Relief Act was going to be introduced. If the Act were introduced, the larger sawkars would naturally call in their money; the smaller sawkars would receive no benefit from the Act; while they would have to comply with the cumbrous procedure and submit to the delays which are the necessary consequences of the Act. They would be ruined, and the credit of the rayats would be destroyed at the same time. To ruin a class of men, who, with all their faults, are useful, cannot be advantageous to the people at large, and to destroy the credit of the rayats is not the best way to give them relief. So far as this district is concerned, I think that the question as to the advisability of introducing the Act may be in great measure answered by comparing the number of simple bonds and deeds of sale and mortgage bonds with similar documents in the districts subject to the Act.

4. The amendments made from time to time in the Civil Procedure Code have given great benefits to debtors. I think that befere the Deccan Agriculturists' Relief Act is extended, it would be better to watch the working of the provisions of the Civil Procedure Code.

5. With regard to the special provisions of the Deccan Agriculturists' Relief Act, I think that the period of limitation laid down in section 72 might with advantage be extended to other parts of the Presidency. The period of three years fixed in the Limitation Act for suits on simple bonds tends to increase litigation. If the period were extended, creditors would not have to hurry into Court, and debtors would not be subject to the pressure under which they are now brought to pass fresh bonds in order to avoid a suit.

6. The provision which requires the personal attendance of the defendant is, I think, unnecessary. If a decree passed *ex-parte* is unjust, the defendant can, under the Civil Procedure Code, have it set aside. If the personal attendance of a defendant were required in every case, the result would, I think, be that, in lieu of entries in the returns showing *ex-parte* decrees, there would be entries of claims admitted or of applications for payment by instalments.

7. Inquiry into the past history of transactions may, in some cases, be beneficial to the rayat, and if the sole object in view is to relieve him of his embarrassments, the provision may be defended on the ground of political expediency. But it is open to objections. If any relief is given to the debtor, the process by which it is given is demoralising. The Court in fixing the amount due virtually allows the debtor to compound with his creditor without having recourse to the sections relating to insolvency, which appear to have never been popular. Inquiry into past history may give no relief at all. Thus A borrows from B. B threatens to sue A, who borrows from C. C sues A, and the result of an inquiry into the transaction would be that A would have to pay the principal and interest due to both B and C. A debtor who has paid interest from time to time might be in no better position than one who had paid nothing. In many cases it is impossible to ascertain the real history, and the Courts have to go by guess work. This is opposed to the ordinary principles upon which the administration of justice is founded, and creditors would be likely to refuse to lend money at all knowing that their claims would be liable to be arbitrarily reduced.

8. The payment of decrees by instalments is in certain cases allowed by the ordinary law, and I do not think it need be extended.

9. With regard to imprisonmetn in execution of decrees, I am of opinion that the Civil Procedure Code, as amended by Act VI of 1888, goes far enough.

10. The exemption of land from attachment unless it be specifically mortgaged, is, I think, unnecessary. If this provision were extended to other districts the result would be that money would be advanced only on mortgage, and probably sales would increase. The rayat has an estate in his land which he can alienate. As population increases, the struggle for existence increases equally. In the ordinary course the smaller holders will be obliged to part with their holdings and there will be a tendency to the creation of large holdings in the hands of a few capitalists. Whether any legislation can check this tendency is doubtful.

11. From some decisions passed by "Lawad Courts" I am not in favour of conciliators. I doubt whether the men who would be best qualified to act would be willing to give up their time to the work, and those who would be willing to act are those who are least qualified for the duty. The class to which I refer, are the professional writers and professional witnesses. In any case the best class of work would not be obtained. If the system of arbitration is to be extended, the best arbitrators are, in my opinion, the Subordinate Judges. Their training eminently suits them for the work, and their awards would command respect owing to their being unconnected with local politics. Apart from the superior quality of the work done, the Subordinate Judges would show greater promptness and punctuality. In like manner Subordinate Judges would work better and more speedily than Village Munsifs.

12. The provisions of section 70 are salutary; but I doubt whether they are necessary, as oral mortgages are very rarely met with.

13. The provisions regarding revision are, I think, objectionable. They only tend to prolong litigation, and it would be as well to allow appeals. Revision seems to be little more than appeal under another name, and would tend to introduce an element of speculation which must be bad in the administration of justice.

14. The introduction of the Act would entail the necessity of establishing fresh Courts and increasing the registration staff. The cost to Government would, in my opinion, far outweigh any benefits which the Act could give. At any rate before fresh expenditure is incurred the Act should be proved to have fulfilled the purpose for which it was passed.

No. 47. From J. L. JOHNSTON, Esq., District Judge, Dharwar, to W. LEE-WARNER, Esq., Secretary to Government, Bombay, Judicial Department,—No. 2363, dated District Court, Dharwar, the 18th December 1888.

I have the honour to forward a report from Mr. Wagle, the Subordinate Judge of Gadag, with his opinion on the points enumerated in paragraph 6 of Government Resolution No. 2709, dated 25th May 1888, sent to me with your letter No. 3091, dated the 13th June 1888. This gentleman is the only one of my Subordinate Judges who has had any personal experience of the working of the Act in question, and therefore is the only one consulted by me, or whose opinion might be of weight with Government on the points for consideration. His opinions will be of some value even though his experience has been limited to a couple of years.

2. I myself have had personally next to no experience of the Act. However, I shall proceed to comment on Mr. Wagle's opinions and answer the questions put to me from my own very short experience of the Act or from my opinions on points of principle or expediency.

3. (i) As regards the attainment of substantial justice, I am not prepared to say that the balance is much in favour of the Relief Act as compared with the ordinary system. Mr. Wagle confines the superiority of the Relief Act to the case of persons who recklessly enter into agreements under a pressing necessity. But I myself have seen instances where this relief has been given under the ordinary system by the Subordinate Judges and upheld on appeal. The administration of justice even under the Relief Act must be to some extent subject to some rules, and where there are any rules in some particular instances substantial justice will not be done if the rules are strictly carried out, but this rigidity is inseparable from the existence of rules or laws and their uniform enforcement. It is a question whether the benefit derived from relaxation of rules is not outweighed by the element of uncertainty thereby introduced into the contracts and dealings between man and man.

4. (ii) Mr. Wagle's opinion is that the certainty under the Relief Act is less than under the ordinary system. With this I quite agree. It is perfectly natural to expect that different Subordinate Judges and different Judges will use their discretion in very different ways. Discretion must vary with the personality of the Judge and even in the case of the same Judge at different times and with different facts. I am quite certain that the same officer might under section 13 decide very similar cases differently. All would depend on the circumstances of the particular case and the greater or less experience of the same or different Judges in such cases.

5. (iii) The work to be done being equal, the procedure of the ordinary system is far speedier than under the Relief Act. The preliminary steps in the ordinary Court are soon got over. Of course, if the work is enormously in arrears, the suit will take a long time. But the same will occur under the same circumstances in the Relief Court, and there is in addition the extra delay of the preliminaries to suit in the latter Court. In execution, the balance of celerity appears to be much in favour of the procedure under the ordinary system.

6. (iv) As to convenience, the loss of time to parties and witnesses under both systems appear to be about the same. I would think, however, that the time would be greatly extended under the Relief Act owing to the mere extended enquiries necessitated, especially by section 13.

7. (v) As to economy, I presume that the Relief Act is much the more costly to Government under the present rate of fees where the suitor only pays half the ordinary rate, and besides, it necessitates almost a double staff of Judges for the area over which it is worked as compared with the same area where the Act is not in force.

8. (vi) It naturally follows that the Relief Act by charging lower fees tends to the institution of some righteous suits by poor suitors. I do not think that many unjust or speculative suits would be encouraged. The pauper also can sue even under the Procedure Code.

9. (vii) (*a*) The Subordinate Judge speaks here with the authority of experience. I should myself certainly think that in the long run the material condition of the community would be impaired by the uncertainty of the fulfilment of contract and the discouragement of capital and enterprise of capitalists. The sawkar will not lend as much or on the same terms when he is not sure that he will get back his money and profit therewith.

(*b*) The moral condition of the community must be lowered by the Act. The security of property is undoubtedly lowered, and the personal relations between the lender and the borrower must be entirely altered for the worse when the lender knows the risk of not getting back his money with profits, and the borrower knows that he may successfully evade, in whole or in part, his obligations voluntarily entered into. Individual enterprise and energy must deteriorate. Less capital must of necessity be available. The ordinary law of Civil Procedure is far better. It leaves the stream of business and trade to run in its ordinary channels. It leaves room for the energy and enterprise both of the capitalist and of the borrower. A man would know under it pretty well what he had to expect either as lender or borrower. Under the Act all is uncertain, and what is permanently arranged to-day may be unsettled and totally changed to-morrow. The mere expectation in a district that the Act would be partially or wholly put in force would be sufficient to unsettle the minds of men and shake their reliance on the security of contract.

10. (viii) I am not of opinion that the provisions of the Act are superior to the ordinary law.

11. (ix) I can give no opinion on this point.

12. (x) It is not desirable to extend the Act to the other classes than agriculturists.

13. (xi) The Act should not be extended to any class in other districts. Nor can it with advantage be made of general operation.

14. (xii) I am not of opinion that any particular provisions of the Act could with benefit be adopted into the general system of Civil Procedure. The insolvency provisions of the Act have not to any appreciable extent been taken advantage of as they stand. The Civil Procedure Code as it stands provides amply for insolvency procedure and even these provisions are very little taken advantage of by the judgment-debtors. There is a shrinking, I believe, from the disgrace of being declared insolvent in many cases and in many the custom of the country is against the practice, and in many the provisions are not known by the parties concerned.

15. (xiii) I do not know anything from experience of the conciliation system and the Village Munsifs. I should dread that conciliation would often involve delay in suing and consequently protracted of litigation and the taking of evidence of witnesses later than otherwise it would have been taken under the ordinary procedure when the facts would have been fresher in the memory of the witnesses.

16. As far as my own district Dharwar is concerned I see no need for any provision of the Act being introduced into it whether I consider the working of the ordinary Civil Procedure in the District or the condition of the people or the enormous increase of litigation in all the Courts during the last five years beginning with 1884.

No. 48. From Rao Saheb VITHAL VAIKUNTH WAGLE, Subordinate Judge, Gadag, to the District Judge, Dharwar,—No. , dated Gadag, September 1888.

With reference to your letter No. 1543, dated 18th ultimo, forwarding a copy of Government Resolution No. 2709, dated 25th May 1888 (herewith returned) for my opinion on the points enumerated in paragraph 6 thereof, I have the honour to report as follows :—

2. Before proceeding to express my opinion on the several points I beg to be allowed to state that the questions involved therein can be best answered by one who has had a long experience of the working of the Agriculturists' Relief Act. I was concerned in working the Act only for a couple of years. My opinions based upon a limited experience cannot therefore be of very great value. With this brief remark I beg leave to answer the points in their order.

3. Now as to the first point the special provisions intended by the legislature for the attainment of substantial justice to the indebted agriculturists are contained in sections 12 to 15 of the Relief Act. Under the ordinary law, namely, the Contract Act, the Court can afford redress only in the case of fraud, mistake, undue influence in a contract, but the aforesaid provisions of the Relief Act go further and empower the Court to modify agreements deliberately made by the agriculturists. They proceed on the assumption that the agriculturists are entirely ignorant people and readily enter into any agreements however unjust though they may not be tainted with fraud, mistake, etc., as defined by the Contract Act. The Relief Act does not therefore give so much importance to the consent of an ignorant person as the ordinary contract law does to that of an ordinary contracting party. I am therefore of opinion that in the case of persons who recklessly enter into agreements under a pressing necessity the Relief Act is more calculated to ensure substantial justice than the ordinary law.

4. As regards the certainty of a probable decision on a given state of facts, I do not think the Relief Act compares more favourably with the ordinary system. The conclusion to be arrived on a given state of facts whether under the one or the other system depends on the point of view from which you look at the facts, and all Judges cannot be expected to look at the fact from the same point of view. There have been many cases under the Relief Act in which one tribunal took a different view to that entertained by another on the same state of facts. For aught I know there should be the greater probability of a decision being uncertain under the Relief Act than under the ordinary system, for the obvious reason that the provisions of the former enactment unlike the latter give unfettered discretion to Courts to modify private agreements in such a way as they may think proper and just.

5. Now with regard to celerity, first as to decision (*a*) the litigation under the Relief Act is necessarily protracted longer than under the ordinary law. Under the Relief Act a case remains for a long time before a Conciliator without whose certificate a suit cannot be entertained in a Civil Court. After the suit is filed in a Court the period of its duration must depend upon the work of that Court. The less the number of cases the shorter must be the period of disposal, whether under the one or the other system. Now as to the length of time which a decision passed by the first Court takes to become final, though the decrees passed under Chapter II of the Relief Act are nominally made unappealable by section 10 thereof, still the powers of revision conferred by Chapter VII of the Act upon a Special Subordinate, and the Special Judge coupled with the power of final revision vested in the High Court tend to prolong the litigation to the same length as, if not more than, that which cases under ordinary law occupy in appeal in the District and High Court.

Secondly, as to enforcement of decrees (*b*) decrees under ordinary law can be much more effectually and in much shorter period executed than under the Relief Act. By the latter Act the person as well as the immoveable property of a debtor is exempted, *vide* sections 2 and 22, whereas under the ordinary law only the cattle and implements of husbandry necessary for the purposes of agriculture and materials of houses occupied by agriculturists are exempted from attachment, *vide* section 266 of the Civil Procedure Code. His person is also liable subject to certain restrictions, introduced by the recent Debtors' Imprisonment Act. The execution under ordinary law must therefore be more effectual. Now as to the length of time the decrees under the Relief Act are transmitted to the Collector for execution in accordance with the notification passed by Local Government under Section 320 of the Procedure Code, and also under Sections 22 and 26 of the Relief Act. It is a notorious fact that the execution by the Collector takes a much longer time than by the Court. I am therefore of opinion that as to the celerity either with regard to the decision of a suit or with regard to the effectual execution of a decree when passed, the Relief Act does not compare favourably with the ordinary system.

6. With regard to the 4th point—namely as to convenience—I think the parties and witnesses have to undergo the same harassment and loss of time under both the systems to attain just and sound decrees and effectual execution thereof. It may be that, in the cases of agreements come to before a conciliator under the Relief Act which when filed in a Court have the force of decrees, the parties and witnesses have to suffer less trouble and loss of time. But in the cases which are filed in the Court under the Relief Act I may say they have to undergo a little more trouble and waste of time both to obtain decrees and execution thereof The parties have to attend the Court in person in those cases for examination under section 12 of the Act, and the amount of harassments and waste of time would depend upon the number of postponements granted. So that on the whole it is difficult to say whether under the Relief Act the parties and witnesses have to suffer less harassment and loss of time than under the ordinary system. I have therefore stated that the convenience or inconvenience to them under both the systems is almost the same.

7. Now as to point V, namely economy, it has a double aspect—economy to State and economy to private individuals. If the fees in ordinary suits be reduced to those required in suits under the special Act, there would be greater economy to private individuals, whereas if the specially reduced fees were raised to the ordinary level, there would be greater income to the State, and *á fortiori* greater loss to private individuals. Therefore from the parties point of view there is greater economy to them under the Relief Act, and if the State is in a position to do so, this concession may usefully be extended to all classes in general by reducing the ordinary fees to the level of the specially reduced ones.

8. With regard to the 6th point I must answer both the questions in the affirmative, with a slight reservation. The system of conciliation coupled with the total exemption of some suits from stamp duty and partial reduction of stamp duty in other cases under the Relief Act does, in my opinion, tend to encourage persons to a great extent in instituting suits which they would not have otherwise instituted. At the same time it is true that these facilities do to some extent induce persons to bring unjust and speculative suits, but I am unable to say that the extent of such false suits is material. In my opinion, the Relief Act is calculated to do more good than harm in this respect.

9. As regards the 7th point, I feel myself unable to say, from my experience of the Relief Act that it tends to improve the material and moral condition of the community. The people of India are altogether devoid of energy and enterprise, and no amount of facilities granted by the Legislature would infuse that spirit in them. I do not think that the Relief Act has made the agriculturists of the four districts in which it has been in force for a number of years a bit more energetical and enterprising than they ever were. As to the introduction of capital, many difficulties having been put in the way of creditors, and all means of recovering the debts having been taken away by the Act, the sawkars have been necessarily discouraged to lend money so freely as they once used to do. There is therefore less introduction and application of capital since the Act came in force than before. As to security of property, the Relief Act no doubt exempts the immoveable property of agriculturists from attachment and sale; and though the object of this exemption is to preserve their property, still in point of fact it has lessened their credit with the money-lenders whose aid is indispensable to them, and the consequence has been that in cases where they formerly could borrow on mere word of honour or on simple bonds, they have now to sell their lands to the money-lenders. No mortgages are accepted, because they render the creditors amenable to the sweeping provisions of the Relief Act contained in sections 12 to 15. It is a notorious fact that since the Act has been in force the sales by the agriculturists of their property have become more numerous than before. The aforesaid remarks will show that there has been no substantial change in the material condition of the community under the Relief Act. Now, as to personal relations and fulfilment of obligations, the Relief Act has altogether estranged the rayats from their sawkars, between whom at one time there was the affection of a protectee and a protector. Since the Act has been in force the agriculturists have naturally come to know that any solemn obligations they may enter into are easily set aside by the Court. The sense of fulfilling obligations is fast losing its hold on their mind. At one time I say from my personal experience that the morality of the poor people was so strong that they would repudiate the idea of taking advantage of the insolvency provisions with indignation. But the Act has now taught the people that they will not be compelled by law to fulfil all obligations which they may incur. Thus I think the Act has to a certain extent demoralised the people. I therefore say that the Relief Act has not tended to improve the material and moral condition of the people. The Civil Procedure Code compares, in my own opinion, more favourably with the Act in these respects.

10. As regards the 8th point, I am on the whole opposed to the novel provisions contained in the Act, except as regards the system of conciliation and appointment of village Munsifs. In any opinion, no changes can make or keep the Act superior to the ordinary law.

11. With regard to the 9th point, I cannot suggest any changes in the rules framed for the mode of working the Act; but as regards the machinery and *personnel*, the offices of the Special Subordinate Judges and the Special Judge may with advantage be abolished. I think the ordinary Courts are quite capable of working the Act as it stands with equal efficiency, and the abolition of the offices specially created under the Act must necessarily result in a large saving to Government. At present the division of supervising business between the ordinary and special tribunals causes immense confusion. I am therefore of opinion that the working of the Act can safely be entrusted to the ordinary tribunals, having regard to efficiency as well as economy.

12. As regards the 10th point, I do not think it desirable to extend the Act to other classes than agriculturists in the districts in which it is now in force either with or without modifications. My reasons for this opinion can well be gathered from the foregoing remarks as to the results of the Act.

13. As to the 11th point, my answer is also in the negative for the same reasons.

14. As regards the 12th point, I think the provisions of sections 19, 25, 26 of the Act may with benefit be adopted into the general system of civil procedure without any qualification. Those provisions should extend to all classes alike. Under the Code as it now stands the Mofussil Subordinate Courts have no power to entertain insolvency applications unless and until a debtor is brought before them under arrest, and they have no power to give a total discharge to a debtor even when the debtor appears quite unable to pay a petty debt Such powers as these might enable the Courts to give relief in deserving cases. If a debtor is found guilty of dishonesty in the insolvency proceedings, the law as it stands (section 351, Civil Procedure Code) leaves no option to the Court but to refuse to declare him insolvent. The result is that the dishonest debtor is left at liberty still to deal dishonestly with his property to the loss of his creditors; whereas it is he, above all, who should be deprived of all control over his property so as to make what little property he has available for his creditors. Section 351 of the Code may therefore well be amended in the direction indicated in section 26 of the Act.

15. With regard to the 13th and last point, I am of opinion that the system of conciliation and that of Village Munsifs may be extended to all districts generally without any distinction of classes. That must necessarily lessen the work of the Civil Courts. I have already suggested what other provisions of the Act can with advantage be imported into the Code of Civil Procedure. Besides these, no other improvements appear desirable in the Code or in the constitution and jurisdiction of the Civil Courts or in their way of working under the ordinary law. As to the system of fees, I have already stated above that a reduction of fees would be most heartily welcome by the public if the financial condition of the State permits it.

16. In conclusion, I beg to add that owing to press of judicial work I have had not sufficient time at my disposal to study the points more carefully than I have been able to do, and as I received a call from you for the report I could not delay its submission any longer.

No. 49. *Extract from Government Resolution (Revenue Department), No. 625, dated 23rd January 1889, on the Annual Report on the working of the Western Bhil Agency, Khandesh, during the year 1887-88.*

* * * * * * * *

3. The Bhil Agent represents that the good work achieved by the Agency is likely to be undone by the action of the village sawkars or money-lenders, and to remedy this evil proposes the introduction of the Deccan Agriculturists' Relief Act into Western Khandesh. The question of extending the Act to Khandesh and certain other districts is at present under the consideration of Government in the Judicial Department, to which Department extract paragraphs 23 to 25 of Mr. Davies' report with the remarks made thereon by the Collector and the Commissioner should be forwarded for such action as it may deem necessary to take in this matter. * * *

No. 50. *Extract from letter No. 137, dated 14th September 1888, from Mr. D. Davies, Western Bhil Agent.*

* * * * * * * *

23. In conclusion I would point out the necessity of some arrangement being made to prevent the Bhils, who we are endeavouring to induce to take to cultivation, falling into the

hands of sawkars, patils and others, who, I may say, eat them up and make them little better than slaves for life.

24. It is the desire of Government that the Bills should be induced to settle down into peaceful cultivators, and very much has been done towards this by the Agency, and some villages which were uninhabited ten or twelve years back are now paying revenue to Government at the rate of R500 and more a year, the inhabitants being all Bhils. The efforts of the Agency are, however, crippled and in many cases rendered useless by the transactions of the sawkars and other money-lenders. These sawkars, patils and others would rather lend to a Bhil than to an educated person, for the simple reason that the ignorant Bhil is entirely at their mercy ; he cannot read accounts, nor can he get any person who does read that he can trust (the kulkarni and other writers all being on the side of the rich lender). Thus, although his small earnings are yearly snapped up, the debt still remains, though in reality it has been paid over and over again. It would take up too much paper for me to give details of many cases that have come before me,—suffice it to say that it is perfectly sickening to sit and listen to them. The system is as follows :—

> " A Bhil borrows a certain amount of grain from a patil, a vani or sawkar, and a bond is taken from him for a certain sum. After gathering his crops, the Bhil pays back as much grain as he can, but the holder of the bond declares there is still some due, the Bhil then pays more, or perhaps the balance (false) has to stand over until next harvest, when an immense quantity is demanded, and so year after year the man's crops are eaten up."

It must be understood that the sawkar or other lender never by any chance passes a receipt to the Bhil for the instalments he pays ; and his invariable answer when questioned on this point is that the Bhil did not demand one, thus taking an unfair advantage of the ignorant. A Bhil, for instance, has to pay six maunds of grain and he can pay five only ; one therefore stands over until next harvest, when he pays, say, three maunds more, but he holds no receipt for the five maunds paid in the former year, nor is it entered by the wily lender on the bond, and of course payment is demanded again. The Bhil is ignorant and helpless, and the patil and village writer being one with the rich lender, and the bonds written as they like, what chance has he ? It is not an uncommon practice for the employers to obtain a Bhil's signature or mark rather to a fresh loan which is given by treating him to liquor and making him intoxicated.

25. It will probably be asked what remedy there is for what I have reported above, and the only one I can think of is the introduction of the Deccan Agriculturists' Relief Act into Western Khandesh. I do not know whether it has ever been suggested to extend this Act to Khandesh, but I think it very desirable that something should be done to protect our Bhils from these money lending scoundrels, and would ask you to give the matter your consideration.

Extract from an endorsement No. 6882 of 1888, dated 24th September 1888, by the Acting Collector of Khándesh on the above. No. 51.

* * * * *

3. The undersigned is inclined to agree with Mr. Davies in thinking that some special measures are required for the protection of the Bhil cultivators. At present they are completely in the hands of the sawkars, who, though they cannot touch either the land or the bullocks, manage to get pretty well all the crops. The question will, however, be dealt with in connection with the general question of the introduction of the Agriculturists' Relief Act.

From J. Pollen, Esq., Acting Collector of Ratnagiri, to the Under Secretary to the Government of Bombay, Judicial Department,—No. 1571, dated Ratnagiri, the 19th May 1889. No. 52.

Referring to paragraph 8 of Government Resolution No. 2709 of 25th May 1888, requesting my opinion as to whether it is desirable to extend the operations of the Deccan Agriculturists' Relief Act either wholly or partially to this district, I have the honour to state that after careful enquiry I have come to the conclusion that no good results would follow from the extension of the Act either in whole or in part to this district. This view is, I find, shared by officers who know much more about the district than I do. Oppression by money-lenders appears to be comparatively rare in Ratnagiri and the peripatetic blood-sucking Marwari of the Deccan seems almost unknown here. Mr. Cumine thinks that the people are too poor to attract outside money-lenders and states that hardly ever hears of ill-treatment by local creditors. He points to the Khot landlords as the people against whom the rayats

really require protection, and adds that he sees little use in elaborately closing the stable window when the stable door is deliberately left open. I do not myself share Mr. Cumine's extreme views as to the rapacity and deadly nature of the Khot, but of course he knows much more about this district than I do. But I have satisfied myself that the description of the relations existing between the cultivators and money-lenders given in the Ratnagiri Gazetteer is a very fairly accurate one, and I am of opinion that these relations are certainly not such as to necessitate the extension of the Relief Act to this district.

No. 53. From R. M. KENNEDY, Esq., Acting Collector of Thana, to the Under Secretary to the Government of Bombay, Judicial Department,—No. 3543, dated Thana Collector's Office, the 25th May 1889.

I have the honour to report with reference to your No. 2700 of date the 20th instant.

2. I regret that I am unable to give statistics owing to the suddenness of the call. From your No. 981 of date the 21st February 1889, it was presumed that no report was now required.

3. I myself am in favour of the application of the Deccan Agriculturists' Relief Act to the Thana District. In this opinion all the district officers concur.

4. The agricultural classes are, except in Salsette, steeped in debt. The hill-men are now losing their lands, which are passing into the hands of capitalists, who treat them as serfs, barely leaving them the wherewithal to support life.

5. Assuming that the Act is beneficial, as I am inclined to think, this district is one eminently requiring the relief afforded by the Act.

6. The objections taken are stock objections, and have, moreover, less force in Thana than elsewhere. They are—

(i) that the cultivators will be unable to borrow for marriage and other ceremonies;

(ii) that they will be unable to borrow in times of scarcity.

In a poor district like Thana, sparsely peopled, it is advisable that reckless expenditure on marriage and other ceremonies should be kept down. Again, as the rainfall is usually regular, and never wholly deficient, the contingency of a failure of crop need less be considered in Thana than elsewhere.

7. I am of opinion, therefore, that if the Act is kept in force in other districts, it should certainly be applied in Thana.

8. If the Act were not made generally applicable, I would certainly recommend its being made applicable to all the agricultural classes in the poorer talukas, and in the hill villages of all talukas. To make it of real benefit to the hill-men, it should be accompanied by a distribution of available lands—after forest demarcation—on yearly tenancies which would prevent the lands distributed being sold.

9. I write with diffidence as I have no knowledge of the working of the Act, never having served in a district in which it was in force.

No. 54. No. 1628, dated Camp Khandala, the 30th May 1889. Endorsed by G. F. M. GRANT, Esq., Commissioner, N. D., Khandala.

Forwarded.

2. A copy of No. 981, dated 21st February 1889, has not been supplied to this office.

3. Government will have before them the statistics collected by the Special Officer. The objection stated that the measure tends to diminish or extinguish the credit of the poorer rayats has been taken by many authorities, but no such distress has arisen, since the introduction of the Act, as would fairly test the fact.

* * * *

No 55. Observations by the Honourable Sir R. WEST, K.C.I.E., on the operation of the Deccan Agriculturists' Relief Act as represented in the report of Mr. Woodburn and the accompanying documents.

INTRODUCTION.

The Deccan Agriculturist's Relief Act, No. XVII of 1879, has now been in operation for nearly ten years. It has been modified by amending Acts passed in 1881, 1882 and 1886.* It was an attempt on a considerable scale to remedy, by legislation reconstituting the elations of debtors and creditors, the state of a too manifest and crushing indebtedness into which the peasantry of the Deccan had fallen in the years following the inflation and hollow prosperity of 1865. The experiment was watched with great interest not only

*Acts XXIII of 1881, XXII of 1882, and XXIII of 1886.

in India but in Europe; and favoured as it has been by the Government it has had every chance of success. In some respects success appears to have been attained—how far and at what cost are questions that have not ceased to be debated. Previous essays towards ascertaining the material and moral results of the Act had not proved very encouraging, but it was certain that nine years' working of the measure must have furnished grounds for some moderately safe inductions, if only the facts could be collected and the consequences drawn out with the requisite ability. There was an evident general improvement, to whatever cause it was to be ascribed, in the material condition of the Deccan districts. In some other parts of the Presidency freedom in transactions appeared to be drawing the peasantry into increasing debt. The heroic remedy was at hand: an extension of the Deccan Agriculturists' Relief Act, it was said, would in Nasik or Ratnagiri equally as in Poona or Satara relieve the rayat from his burdens and give him a new start in the race for prosperity. It was natural and inevitable that demands should arise for an extension of the Deccan Act to other districts suffering under a general indebtedness. On the other hand the alleged benefits of the Act were by some denied, or said to be coupled with mischiefs of a grave and enduring kind, a general contraction of credit, an increase of the landless proletariat, a marked depression of the middle class and a diminution of activity and enterprise as compared with the progress observable elsewhere. The Bombay Government resolved that as far as possible the whole problem should be thoroughly investigated. It selected an officer of reputation and experience to examine the subject and furnished him with ample instructions.† Mr. A. F. Woodburn, C.S., the officer chosen for this task, has discharged it with most commendable intelligence and perseverance. He has received valuable aid from the local officers both of the Revenue and of the Judicial Departments. The mass of information he has thus been enabled to bring together may not in all cases support the inferences he has drawn from it, or not in the unqualified form in which he has presented them; but it is in itself authentic, extensive and varied. It invites close and searching consideration and yields results which are not the less valuable because they are in some instances indeterminate or merely negative. It is much to learn from experience and exact inquiry that there are limits of operation to even so drastic a law as the Deccan Agriculturists' Relief Act, that some of the problems it was to solve speedily and satisfactorily, remain still unsolved and perhaps insoluble.

† See Resolution No. 2709, Judicial Department, dated 25th May 1888, prefixed to the compilation of Reports.

2. The introduction of the Deccan Agriculturists' Relief Act into the four districts in which it operates,‡ was preceded by several successive seasons of scarcity, amounting in some years to famine. The material condition of the peasantry was abnormally depressed. All those who in ordinary times lived with but a small margin of means and comforts beyond the bare needs of existence, had inevitably become plunged in penury and debt. Since the introduction of the Act the seasons have been favourable, in some years abundant. A partial failure of the rains in 1888 caused some distress in Ahmednagar and Sholapur, the consequences of which will be examined hereafter: but with this exception the agricultural population has had no trial worth mentioning to contend against. Meanwhile the extension of railways and other communications, the spread of irrigation, the stimulus given to commerce by the fall of silver, the great improvements in the organization of trade, and the ever-increasing enterprize and competition of agents seeking to buy the rayats' chief products for ready money, have in the Deccan, as in other parts of the Bombay Presidency, produced a remarkable change in the economical conditions of rural life and activity. The last ten years have on the whole been a period of quite unusual expansion and development, manifesting itself in the greatly increased growth of exportable products in the districts bordering on those under the Deccan Agriculturists' Relief Act. In the latter even more than in the former the increase of population has led to the almost complete occupation of the available waste lands, and forced the cultivators, as extension became difficult or unprofitable, upon a greater intenseness of agriculture as shown by the augmented numbers of cattle, of the instruments of tillage, and of the means of conveyance. That under such influences there should have been considerable changes and some ameliorations in the material existence and the mutual commerce of the rural population was to be expected, quite apart from the operation of any special legislation. Mr. Woodburn has judiciously chosen the method of comparison in endeavouring to appreciate how much of the actual phenomena now presented by the Deccan, can properly be ascribed to the Act which in 1879

‡ Poona.
Satara.
Ahmednagar.
Sholapur.

† Printed on pages 10 and 11.

revolutionized the relations of debtor and creditor in the considerable area over which it operated. As the facts he has gathered admit in many instances of more than one construction, and the statistical tables appear far from uniform and consistent in their indications it will be necessary to scrutinize his statements and arguments with some minuteness in order to appreciate their precise worth and force, to determine exactly how far they are correct and sufficient as to the present, and how far they can be safely accepted as a basis of action for the future. The opinions of Collectors and Assistant Collectors who have been in close relations with the people have been properly relied on by Mr. Woodburn. To the views of the judicial officers he has adverted less, but these officers being the persons who have actually administered the Act have had special means of information and of comparison. They have applied its provisions day by day concurrently with those of the ordinary law, and their auxiliary reports afford the best materials for a detailed examination of the provisions of the Act.

3. It appears that the administrative officers struck with the evidences of material progress and sharing through a natural sympathy the dislike felt by the struggling peasantry or money-lenders and bailiffs, are generally, though by no means universally, of opinion that the Deccan Agriculturists' Relief Act has been on the whole distinctly beneficial. These views seem to have been confined in almost every instance to the agriculturists and their immediate interests, with comparatively slight regard for the other classes of the community and especially for the middle class of small capitalists, whose presence and prosperity is regarded by economists as an almost indispensable factor of economical progress. Nor have they shown any disposition to realize the remote probable consequences of the Act, as one which holds out a strong inducement to money-lenders to insiston real securities for loans. The immediate and relatively momentary result of a virtual cancellation of liabilities appears as usual to have produced an over-strong impression, and this impression, it is evident, has been freely accepted by Mr. Woodburn himself. He has dwelt strongly and laboriously on the statistics which from this point of view seem to furnish a vindication of the Act. To the counter-indications which in some instances they afford, he has been less attentive; nor has he quite appreciated certain tendencies which are already manifest, yet require several years more for complete working out.

3. After submitting his report to a somewhat detailed and critical examination, I propose next to consider the several provisions of the Act by the light thus gained, and by the observations of the officers who have been engaged in carrying these provisions into effect. We shall thus have reached a standpoint from which to appreciate the operation and consequences of the Act as described, with reference to generally received standards, by those who have got most behind its surface. The principal points of comparison with the ordinary law will be as to (i) Celerity; (ii) Certainty; (iii) Convenience, and (iv) Economy in working; as to (v) the effect of the Act in encouraging just or unjust litigation; (vi) in improving or impairing the economical condition of the people; and (vii) in raising or debasing their moral tone.

PART I.

Remarks on Mr. Woodburn's Reports.*

1. In the districts of Khandesh, Nasik, Thana. Ratnagiri and Bijapur, it is to be remembered in reading these observations, that the Deccan Agriculturists' Relief Act is not in force.

2. *Paragraph 2, page 2.*—Mr. Woodburn pays the Marwari money-lender has the worst name and is harshest and most unscrupulous in his dealings with debtors. The reason is in a great measure this, that the Marwaris get only the refuse of the borrowing Class as their clients. They are the "Gombeen men." In Khandesh the Collector thinks that their relations with their clients are friendly, and on the whole beneficial (see pages 123 and 124). In Ratnagiri the Khots are the chief grain dealers and money-lenders, and having a direct interest in the property of their debtors, are more liberal in their dealings with them. This points to the advantage of having large properties with dependent tenants. From the economical point of view it cannot be laid down absolutely either that sub-divisions or agglomerations of property are desirable. It seems probable that under our survey system the owners of *latifundia* would soon be in the embarrassed position of proprietors subject to irredeemable encumbrances. From the political point of view, the question presents at least equal difficulties. But if the tendency to agglomeration is thought excessive, it will have to be counteracted, not by merely placing difficulties in the way of creditors seeking to

* Printed on pages 12 to 86.

recover the money due to them, but by definite regulations preventing the alienation of land by agriculturists, either absolutely or except subject to such conditions as may be deemed expedient.

3. *Paragraph 3, page* 3.*—Of the table of interest in this paragraph it may be remarked that its guess-work character is shown by the figures for Ahmednagar.* An additional security cannot possibly *raise* the rate of interest Thana, Ratnagiri and Satara show that where there is good land as security money may be obtained at moderate rates of interest. The high rate of interest on advances in grain indicates partly their regulation by custom, partly that these are taken by the poorest and least solvent part of the population.

* The rate of interest on loans without security is stated to be 12 to 37½ per cent.; on loans with security from 16 to 37½ per cent.

4. *Paragraph 4, page† 4.*—It is stated that the smaller money-lenders kept nothing beyond a rough note-book and that almost all their lending business is done on bonds. Transactions had always been entered into on this footing, and it was well known that the provisions of sections 12 and 13 of the Act, which provide for going behind the bond were necessarily confiscatory. Since small money-lenders usually trade on money borrowed from wealthy money-lenders, it follows that they as borrowers pay compound interest. It is only, therefore, by short accounts and frequent settlements that they can avoid loss under the Deccan Agriculturists' Relief Act. The fact that the condition of day labourers in the Khandesh, Nasik and Bijapur districts bordering on the Deccan, has scarcely ever been better indicates a growing competition amongst capitalists for employment of their money which involves decreasing rates of interest. There has not been a rise in prices. Agriculture in these three districts cannot be unprosperous if it creates a great demand for day labourers

The thinning of the population consequent on the famine in Bijapur left more good land in proportion available. The common result as noticed in works on economics is an unusual progress owing to unusual profits. This is one cause of the great prosperity in that district repeatedly noticed in this report.

The system in Ratnagiri as described on page‡ 5 is a perfectly sound and wholesome one. The cultivators are poor; the capitalists who are indispensable are considerate and forbearing. Owing to their caste, which is generally above that of the poorer cultivators, and their social position as proprietors or as masters of the small communities, the money-lenders in this district have a much better choice of borrowers than in the Deccan and can bring influence to bear in obtaining repayment, which makes great material harshness unnecessary.

Page 5.

5. On page§ 7 Mr. Woodburn describes the contract by which the mortgagee takes the usufruct instead of interest as "most pernicious," but the usufruct in lieu of interest is not necessarily pernicious. On the contrary it tends to the rayats' parting with only just so much land as is necessary. If the loan is ₨500 at 6 per cent. the rayat on an antichresis will part with just so much land in mortgage as will give a net aveage return of ₨30. His mortgagee being generally more intelligent and rich will make it produce more. If on the other hand accounts are to be kept, the lender holding the land exacts higher interest, requires larger security in land, and is ready to foreclose at a favourable moment. If the mortgagor is left in possession, each of these evils is aggravated. The usufructuary mortgage is specially suited to agriculturist lenders, who are now pretty numerous, as compared with professional money-lenders.

Page 7.

As to the various forms of mortgage tenure noted on pages 7 and 8, it may be observed that:

Pages 7 and 8.

(*a*) mortgagor pays mortgagee a fixed share of produce.
(*b*) pays a fixed sum in cash.
(*c*) mortgagee in possession takes profits in lieu of interest.
(*d*) mortgagee in possession appropriates profits to interest and balance if any to principal.
(*e*) mortgagee holds land for fixed term in payment of principal and interest.

(*a*) is somewhat unusual;
(*b*) this annual payment is the most common arrangement when the mortgagor remains in possession;
(*c*) is very common; far more in number than all the others;
(*d*) is rare;
(*e*) is rather infrequent.

Rent in cash or produce is undoubtedly generally appropriated in lieu of interest.

The mortgagee when in possession always pays the assessment. In many cases he pays it through the mortgagor and almost always when the mortgagor remains in possession. Under the influence of the Registration system the revenue registered occupancy of lands is becoming

* Printed on page 13 of the Selections.
† " " 14 " "
‡ Printed on page 15 of the Selections.
§ " " 17 " "

gradually divided from the real ownership. Pauper occupants are kept in as Government tenants, while the whole beneficial interest belongs to others. This fact must affect many speculations as to the capacity of the landholders to bear their burdens. It diminishes the security for the land revenue and keeps a large class of cultivators in prædial serfdom.

6. Regarding the history of indebtedness and the state of the law given in paragraph* Pages 8 to 11. it is to be noted that, although the old limitation of interest was opposed to economic science, it probably operated beneficially. It set a standard of reasonable expectation. It tended to check speculative loans at very high interest. It safeguarded in some measure two classes of rayats—(1) those who were incapable of advanced arithmetical computation, and (2) those who had to resort to the sawkar as virtual suppliants. The rule was no doubt often evaded, but still it was the position of stable equilibrium in which all disturbances tended to find rest. Granting ignorance and helplessness on one side and greed and astuteness on the other, the ordinary grounds for unrestricted interest fail as in the case of a minor or female.

Such extraordinary causes of prosperity as are dwelt on by the Commission in the quotation on pages 9 and 10 (*i.e.* in the inflow and outflow of capital at the beginning and end of the American Civil War) must necessarily produce abnormal consequences. In recent years there has been no American Civil War. There has been a steady development of commerce and agriculture, especially in such districts as Khandesh and Bijapur (see the figures for percentage on non-food crops, paragraph 1, page 2).

The fact that through the whole Presidency only 76 persons out of 1,877 imprisoned obtained their discharge under the provisions of the Civil Procedure Code, shows that the creditors having to support the debtors, imprisoned very few except the contumacious (see page 10).

There is a tone of exaggeration about the statements of the Commission quoted on page 10, even as bearing on the Code of 1859, to the effect that the old Civil Procedure Codes practically rendered possible the slavery of debtors, through the large powers to imprison conferred on creditors. As applied to the present Code of Civil Procedure, they would be absurdly wrong.

It is argued on page 11 that a long period of limitation prevents the extortion consequent on a short period. But the extortion could equally be practised under the one period as under the other. As soon as the debt becomes overdue the creditor can sue for it. The only effect of the shortening of the period, was to put a pressure on indolent creditors to renew every three years or four years when they were not shrewd enough to stipulate, as generally they did, for periodical rests.

An unduly short period of limitation, notwithstanding the safety and cheapness of short Page 11. loans, is for some purposes undesirable, but the effects of it have been greatly exaggerated by persons not familiar with the actual working of the law. That it enables a creditor to extort a new bond where he could not do so with a longer term of limitation, is an entire delusion If a creditor holding a bond has the will and the power to extort another one for more than is due, he can equally do this, whether the period of limitation is long or short. In some instances it is said he has done so by an arrangement carried out before the Registrar. Under the Limitation Act, XV of 1877, section 19, a new bond is not necessary for renewal. All that is required is an endorsement by the debtor that the sum is still unpaid. The ordinary mode of doing business with customers who are trusted is simply by "khata" or ledger account which is made up by the creditor and signed by the debtor once a year at the Diwali. This implies compound interest, whether the balance be in favour of the customer or of the sawkar.

The reduction of the limitation period was to three years in the case of bonds unregistered, but to six years in the case of registered bonds. Under the old system, as sawkars were often rather indolent and indulgent, they allowed the term of twelve years to almost run out before they sued. Under the new law they cannot safely wait in general more than three years. As that time is running out they must get a new bond or a written acknowledgment. As this brings his real position home distinctly to the debtor, it is so far an advantage, but it prevents his profiting by promises and excuses which formerly would have been accepted. The debtor gains also under the Deccan Agriculturists' Relief Act, should the creditor still be indolent through the operation of Sections 12 and 13, as the lapse of each year makes it more difficult

* Printed on page 18 of the Selections.

to produce evidence of a real transaction independently of the bond which is the memorial of it. But this is now thoroughly appreciated by the sawkars, who exact new bonds or acknowledgments quite as often as once in three years, and even go through the ceremony of handing to the rayat before the Registrar a sum as consideration for a new bond which outside the door the rayat hands back to discharge an old one. The arrangements induced by the Deccan Agriculturists'' Relief Act thus produce in an exaggerated form the evils of a short term of limitation. It produces, in so far as the purpose of section 72 of the Act is given effect to, the evils, without the counterbalance of good, in the low rate of interest to which short credits tend.

7. In paragraph* 7, page 11, the law regulating the imprisonment of debtors is described. If the present exceptions to the general rule of non-imprisonment are justifiable at all, they are justifiable in the case of an agriculturist as much as of any other person. No honest man need be imprisoned at all, and the actual practice in India is far more lenient than under the County Courts in England.

Page 11.

8. Seed-grain is exempt from attachment and sale in execution, but standing crops are no longer exempt (see page† 12). So long as an agriculturist's land and crops can be attached in execution, the creditor has as complete a hold over him as he can desire. The reservation of mere seed-grain will not keep the rayat alive unless he eats the seed-grain, as he of course will do if all the rest is seized and sold. Under the Deccan Agriculturists' Relief Act land is not attachable in execution unless it has been specifically mortgaged, and the alternative Management by the Collector is illusory,* but the standing crops having been made available by Act XXIII of 1886, the creditor who is tolerably vigilant, may now press on his debtor just as severely in the Deccan as elsewhere. The returns and the report† (see page 17 of the report‡ for 1888) of the Special Judge show that the creditors are becoming quite awake to the means thus restored to them. The chief advantage is to the petty retail sawkar who being on the spot, can watch any movement of his debtor. It may be expected that now this class will begin to flourish again and multiply in the Deccan.

Page 12.

* The Special Judge's Assistant, Mr. Chintaman Bhat, in discussing the Act with me, could not recollect a single instance in which a creditor had realized anything under this section.

† 29. In the year 1887 no applications for the attachment of standing crops were made in ten Courts. This year there were only six Courts in which no such application was made, *viz.*, Poona, Sasvad, Medha, Dahivadi, Shevgaon and Pandharpur. In the remaining 30 Courts there were 329 applications against 141 applications made in 26 Courts in 1887. Fair progress, therefore, has been made this year in the enforcement of this additional facility allowed by the amendment of the law in 1886.

Standing crops.

If the agriculturist is a man to be protected *quand même,* the only effectual way to do it is to guard his person and also his property or a sufficient proportion of his property from responsibility for his obligations. A necessary adjunct of this is prohibition of alienation of land and house or else sufficiently effectual checks on alienation. In Oudh ancestral property is saleable in execution only with the permission of the Chief Commissioner, and in Europe land was only by slow degrees made alienable, as I have shown in W. & B. H. L., 215, 670, 808. It would not be contrary to Hindu notions, but quite conformable to them to guard land against alienation (see Op. Cit. p. 731 *et. seq.*). It would be attended with economic injury by keeping on the lands in many instances persons ill-fitted to till them to the best advantage and by preventing the application of capital. On the other hand it seems that in a large number of cases the Indian rayat is not yet prepared for the responsibilities of complete independence. Nor is Government called on to make those sacrifices of the public property or share in the land for a mere speculative adventurer, which it makes to preserve the peasant in comfort on his small estate. A re-assessment at the full estimated rental on the occasion of each alienation would deprive creditors and speculators of any interests in getting rid of the rayat, but the comparative stagnation that would ensue would have to be taken into account. Possibly rules like those in force in Oudh and extended to all alienations of land would meet the present needs, but they should be confined to small properties of not more than R60 assessment. Interference with the free transfer of land (if anywhere good) must be on the whole mischievous amongst the intelligent and moneyed classes. Even amongst the true peasant class the prevention of alienations would lead to many tricks for out-witting the legislation. Forfeitures would be incessant or tenants would get ill or disappear or be reported dead. When a widow or infant had sold, the adult husband or father would re-appear, etc., etc.

* Page 21 of the Selections.
† " 22 " "
‡ Not printed in the Selections.

9. The other special provisions of the Deccan Agriculturists' Relief Act are enumerated on pages 12 and 13. Regarding them I observe as follows. The provision for granting instalments at any time (page* 12) has been shown in some instances to result in illusory decrees, awarding as instalments less than the accruing interest. In so far as it makes the creditor's position uncertain, it tends to make the terms he must impose more onerous.

Pages 12 and 13.

The insolvency provisions of the Act have not been made use of (page† 13), because the debtors under the Deccan Agriculturists' Relief Act have much to lose and nothing to gain by resorting to insolvency. Till Act XXIII of 1886 was passed the creditor was quite powerless.

The provision that the Court is bound to examine the defendant as a witness has proved quite unprofitable, and often results in hardship, as when a defendant is repeatedly called up, especially in the sowing season.

The system of revision instead of appeal leads to a great waste of labour and leaves everything to the discretion of one man, a discretion that has at times gone seriously wrong.

The discretionary rate of interest allowed introduces a system of guessing.

Conciliation fails in at least 5 cases out of 6. It is used sometimes as a means of fraud. Agreements made before Conciliators and filed by the Court, taking effect as decrees, leave room for undue influence.

Registration by Village Registrars is now generally condemned.

There is no real advantage in extending the periods of limitation for the recovery of money from agriculturists, for the other provisions of the Act compel prompt suits. A single term of six years for all the common class of suits on debts would be best.

10. In paragraphs 9 and 10 of his report Mr. Woodburn proceeds to consider the relative advances in prosperity made in the four districts of Poona, Satara, Ahmednagar and Sholapur, where the Act is in force, and in the five districts of Khandesh, Nasik, Thana, Ratnagiri and Bijapur, where it is not in force, as exemplified by the comparative ease or difficulty with which the land revenue is collected. In a table on page 14 he gives comparative percentages of remissions, irrecoverable balances and outstanding balances, contrasting district by district the period prior to the famine with the recent period since 1882-83. The minute variations shown in this table are such as may well be ascribed to slight changes of circumstances, such as good and bad seasons. As in the Deccan districts there is virtually no waste left, all the land or nearly all must have a saleable value owing to increase of population, and in such circumstances it will generally be a very rare thing for forfeitures to be incurred by not paying assessment. On what estates in the world could so small a proportion of arrears be found?

Pages 14 to 17.

It is in Nasik alone that there has been any very material increase, say 3½ per cent in the proportion of irrecoverable balances. In Khandesh which adjoins Ahmednagar, there has been a decrease of 2½ per cent., while in Ahmednagar there has been an decree of 1¼ per cent. The average outstanding balance is about equally high in Ahmednagar in the four districts and in Nasik in the five districts. Generally it is trivial. The percentages of outstanding balances are really useless for the present purpose. They show only variations in strictness of revenue management.

But generally it is perfectly clear that land must be held on such favourable terms that almost no holder will incur forfeiture. The reason will operate equally whether the tenants are generally well or ill off.

The futility of the second table given on page 15, which endeavours to place the districts in order of progress in prosperity, is proved by its making out Bijapur to be the most declining and worst off district, while it is generally agreed by all observers that it is in fact the most flourishing. As regards this district, Mr. Harvey, in charge of the talukas of Bagalkot, Badami, and Hungund, says (page 120) :—

"The very opposite '(of the state of things in the districts where the Act applies),' is the case in my talukas. In Hungund and Bagalkot the condition of the rayats is excellent; and the percentage who are involved in debt is very small and the amount of their indebtedness is not, I believe, very great. The condition of the Badami Taluka is not so good as that of the other two, but even there the sawkars do not press very heavily on the agricultural classes."

Mr. Woodburn himself says (page 81) the "rayats there are in a much more favourable position than anywhere in the nine districts."

* Printed on page 21 of the Selections.
† Printed on pages 23 to 26 of the Selections.

Wherever there is a good deal of waste land that any one may take up at will, there will be a low sale price of occupied land, and there will also be a larger outstanding balances than where land having been all or nearly all appropriated and having a sale value, the holder will sell privately rather than incur forfeiture by falling into arrears.

The minute differences which appear in the table on page 14 described above, in favour of the four districts, are elaborated all through pages 15 and 16 so as to over-magnify the impression they create. It is stated on page 16 that "there is little difference between the two sets of districts" in respect of the number of notices and compulsory processes issued in the collection of the land revenue, but in fact the proportional differences are considerable. In Khandesh the number of minatory notices per lakh of revenue is about one-third of what it is in Poona and one-fourth of what it is in the neighbouring district of Ahmednagar.* In Ahmednagar the proportion is even little short of double that in Nasik, the poorest of the five districts. Ratnagiri and in a less degree Thana have a land system so entirely different from that of the Deccan that comparison as regards them is unprofitable. The fields in those districts are minutely subdivided amongst co-sharers, and these by their refractory delays in paying their share of the land tax perpetually expose the chief sharers to forfeiture. When it comes to the final pinch they pay up for their own sakes, but often not till then. This is illustrated by the second table on page 16, which shows in detail the number of proceedings per lakh of revenue, taken to compel payment. But why should Ratnagiri be excluded in the lower table on that page and included in the upper, in order to make out a case more favourable to the four districts? In the four districts there are more notices and fewer forfeitures than in the five. This, apart from the purely economical law, shows growing dishonesty in the four. The difference is due chiefly to Ratnagiri, partly to Thana. These districts are quite differently situated from those above the Gháts. The comparison should have been between number of holdings and number of compulsory processes carried through.

Pages 14 to 17.

* See table at top of page 16.

A compulsory process of forfeiture usually implies that the land has no appreciable value above the year's arrear of assessment. Otherwise the rayat would sell his land and pay the assessment, pocketing the difference. The anomaly in Ratnagiri is explained by the circumstances already considered. The conplicated interests in land make its sale very unpopular. It is not easy to realize much by a compulsory sale when the Khot has a large but perhaps not well defined share. A house and its contents are free from this objection.

11. In paragraph 11 on page 17 is given a table showing the increase or decrease per cent. in agricultural stock in 1883-84 to 1885-1886 compared with 1873-74 to 1875-76. Its uselessness or illusory character, as an index of prosperity, is shown by its bringing out the absurd result that Bijapur stands low, while every one agrees it is in reality highly prosperous. This table bears signs of incorrectness on its face. It is almost impossible that carts of all kinds should have greatly increased in the four districts, and yet bullocks have increased only 12 in a thousand, while male buffaloes have decreased 72 in a thousand. In the districts outside the Deccan the proportionate figures are more reasonable. But an increase in Bijapur of 50 per cent. in male buffaloes with a decrease of 5·4 per cent. in females appears very improbable. The converse contrast in Satara, where a decrease of 27·9 per cent. in male buffaloes accompanies an increase of 43·1 in females, is still more striking.

Page 17.

12. Mr. Woodburn next, on page* 18, deals with the annual amount of excise revenue per head, as an indication of prosperity. From the moral point of view it can hardly be a subject of congratulation if Poona and the other Deccan districts have, as Mr. Woodburn says, far outstripped 'the others in drinking.' The figures given on this page, however, only show how easily a man jumps to a foregone conclusion. The Deccan districts have increased their consumption of liquor greatly, to a larger extent than the population of the five districts, and hence Mr. Woodburn argues that the former have more money to spend than the latter; but as a matter of fact the population of the five districts spend 6 annas 4 pies per head on drink, and the population of the four districts only 3 annas 5 pies per head; therefore "the drinking population in the *five* districts have now more money and are better off" by nearly 100 per cent. It is probably the extension of employments, other than agriculture, which generally causes a maximum consumption of liquor. It shows how little these tables afford of real light that Ratnagiri, which on page 16

Page 18.

* Printed on page 26 of the Selections.

makes the worst figure, here makes the best. There have in fact been great changes in the excise system. The actual consumption is now generally supposed to be less (*i.e.*, licit consumption) than formerly, though the duty is greater. But this point is dealt with more fully at pages 55 to 57.

If the reasoning from consumption of liquor is valid then there has been more improvement in Ratnagiri than anywhere else but Sholapur, for the consumption per head in Ratnagiri has increased by 150 per cent., that in Sholapur by 163 per cent., and that in every other district by only 133 per cent., or less. Also there has been three times as much improvement in Nasik, where consumption has increased 95 per cent. as in Bijapur, where it has increased 28 per cent. only; though pages 16 and 14 shew just the reverse.

Pages 18 and 19.

13. Mr. Woodburn in paragraph 13,* pages 18 and 19 gives details of License Tax and Income Tax collections. The Income Tax is levied in a great measure from different classes and on different principles from the License Tax. The years 1886-88, when Income Tax was levied, cannot therefore be compared profitably with 1882-85, when License Tax only was collected. In Poona a large number of officials pay Income Tax who were not liable to Licence Tax; and hence the very large increase of 55 per cent. in Income Tax as compared with Licence Tax collections in that district.

According to the table and the reasoning in this paragraph (page 19) Ratnagiri must be unusually prosperous, for in that district Income Tax collections are 47 per cent. more than the Licence Tax levies were. According to pages 14 and 16 exactly the reverse is found. Nasik, too, which is universally admitted to be in an impoverished condition, comes out as more prosperous and progressive than Satara. Within the Deccan, Ahmednagar appears as far better off than Satara, which is according to other indications exactly the reverse of the truth. The tendency to drag in everything, head and shoulders, to support a preconceived theory necessarily leads to contradictory results.

Mr. Woodburn's assertion on page 19 that the money-lenders in the four districts are transferring their capital to, and making profits in other undertakings than lending to agriculturists, is not fully explained. In Satara 16 per cent. of the money-lenders are agriculturists. (See page 150.) These men are extending their holdings (*ibid.*). The sawkars are in some places, it is said, investing in land because lending is unsafe. A forced and artificial diversion of capital like this is distinctly injurious and it tends to oust the cultivating class more and more from the land.

Pages 19 and 20.

14. The table in paragraph 14† (page 19) which gives the annual revenue, district by district from Court fees, seems to show that the creditors, as a class, have found a way round the Deccan Agriculturists' Relief Act, or else have thrown their transactions into shapes such that its provisions do not effect them to their prejudice, as litigation is growing at a greater rate in the Deccan than elsewhere. For from 1882-83 to 1897-98 Court fees have increased 22 per cent. in the four districts, and only 16 per cent. in the five. The actual Court fee collections are 3½ lakhs in the four and 6½ lakhs in the five districts. The difference of 3 lakhs a year against the four, as compared with the five districts, suggests what a serious loss Government sustains by the system adopted in the Deccan. This is treated of further on.

The contrast in general stamp revenue shown on pages 19 and 20 between the four and five districts is startling. The collections in the four districts in 1887-88 were R1,67,611: in the five districts R4,00,792. In 1882-83 the revenue in the former was R1,83,857 and in the latter R3,52,014. It has therefore largely decreased in the four and largely increased in the five districts. A decrease in stamp revenue is in other countries looked on as a sure index of declining prosperity. The stamp revenue arises on sales as well as on mortgages. It arises also on leases, partitions, promissory notes and mercantile instruments. An increase indicates greater activity, a decrease greater quietness or torper.

Pages 20 to 24.

15. On page 21 Mr. Woodburn gives statistics of sales and mortgages of immoveable property of R100 and upwards. In considering them it is necessary to bear in mind that changes of ownership generally transfer property to more, from less capable hands (cf. pages 25 and 29) and so serve the community at large. It is clear that even when sawkars become owners they are ready to sell again and they generally sell to more competent agriculturists than the former tenants. Some capitalists who have tried the experiment of buying land in Poona say that the character of the rayats to whom they have to lease it, is such that they perpetu-

* Printed on page 27 of the Selections.
† " " 28 " "

ally evade fulfilment of the terms of their leases and practise so much fraud that the landlord can make little or nothing of his property. The boycotting of strangers introduced as tenants is not unknown.

Then it must be borne in mind that there is no reason for assuming that the sale of houses in towns corresponds to and varies with that of firms in the country, though transactions of both classes would be included in the registration sale statistics. In places such as Poona, Sholapur, Ahmednagar and Thana, house property is very frequently transferred and almost always by a registered instrument. The tables dealing with sales and mortgages of R100 and upwards have but little bearing on the movements of property amongst the true peasantry. These are generally effected in small parcels and frequently, at least outside the Deccan, by razinama and kabulayat lodged with a mamlatdar. If any documents are used at all, they never get into the registers under Act III of 1877 or even under Act XVIII of 1879.

In the four districts, of transactions in immoveable property of R100 and upwards, sales have increased 58 per cent. in number, while mortgages have decreased by about 12 per cent. in number. This indicates that owners wanting money are less able to obtain if by morgtage now than formerly. They have to part with their land altogether. This may put the land into more efficient hands, but it is not a result aimed at by the Act, but the reverse. In introducing the Bill in 1897, Mr Hope said :—

Finally, a legitimate mode more practicable than any yet suggested will be provided for gradually clearing off the mass of existing debt which now weighs upon the people and stops all improvement, while the great institution of a peasant proprietory, which is at once essentially Indian, and considered in Europe the best form of tenure for a free people, will not be destroyed.

But with sales displacing mortgages, the institution of a peasant proprietory is being destroyed.

In the five districts there has been a great increase of sales, but a great increase also of mortgages.

In both groups of districts comparing the period 1880-81 to 1883-84 with 1884-85 to 1887-88, the increase in the total assessment of land affected, has been far below the increase in number of sales.*

* See the table† on page 22.

In the four the decrease in assessment on the mortgaged lands has been about 12 per cent. Hence it is plain that the increase of transactions in both groups has been far greater in the small holdings than the large ones.

The increase in the value of transactions in land as indicated by the sale prices and amounts lent, as compared with the assessment, has been large in both groups, but enormously greater in the five districts. This indicates a much greater demand for land in the latter and greater readiness to invest capital. This is the more remarkable as the available waste land in the four districts is almost exhausted.

Such a general increase in the demand for land must needs bring with it a great reduction in forfeitures and sales for non-payment of assessment.

The sales and mortgages of property of more than R100 value represent but a small portion of all that take place.

Many mortgages take the form of leases and this accounts for the great increase in leases. Debts are paid off by leases for periods on favourable terms.

But mere registration tables are, outside the Deccan, really no guide or almost none to the number of sales of petty holdings. A transfer on sale is in many cases effected by means of a surrender and acceptance of a holding or revenue number filed simultaneously in the Mámlatdár's office. Without a comparative table of these 'Rázinámas' the results presented by the registers must be very defective.

The table at the foot of page 23 shows the average number of documents of various kinds per lakh of land revenue, registered under the provisions of the Deccan Agriculturists' Relief Act. It appears that for every R53 of assessment in Poona there is a sale, mortgage or lease every year. If bonds be added there is an incumbrance or sale for every R37 of annual assessment. But sales are often effected by 'Rázinámas' as shown above. Leases are often really mortgages. But taking acknowledged mortgages alone there is one created annually for every R158 of assessment. These mortgages must soon con-

† Printed on page 31 of the Selections.

stitute a very serious burden on the poorer agriculturists and the poorer lands. But in the four districts as a whole, mortgages of small amount are decreasing, and sales increasing, while sales of larger amounts are increasing and mortgages increasing also. The average of sales and mortgages for R100 and upwards of the last four years is 70 per cent. greater than that of the preceding four years. The increase from 151 to 181 in sales of less than R100 is an increase of close on 20 per cent. This must have been attended in all probability with a like increase of transfers by 'Rázinámas.' The concurrent decrease in mortgages, leases and bonds of less than R100 shows the distrust of those securities. But as to bonds, the troublesome ceremonies and the risks attending them under the Deccan Agriculturists' Relief Act are such that they are highly unpopular. Money-lenders prefer an account and reliance on the debtor's honesty. A good deal of reckless borrowing may thus be prevented, as sawkars will not trust paupers, but a good deal of useful and productive borrowing also is prevented, as, *e.g.*, to buy bullocks, carts, ploughs, manure or seed-grain of a superior description. The Government of India recognised the necessity for encouraging useful borrowing of this description, when it passed the Agriculturists' Loan Act, Act XII of 1884. But the end desired seems to be placed beyond attainment by the operation of the Relief Act. It is pertinent to the question to quote here what Mr. Walter Bagehot says about money-lenders. On page 55 of his Economic Studies, he says:

"No doubt, capital begins to move much before the movement of labour is perfect. The first great start of it commences with a very unpopular person, who is almost always spoken evil of when his name is mentioned, but in whom those who know the great things of which he has been the forerunner will always take a great interest. It is the money-lender in a primitive community, whose capital is first transferred readily from occupation to occupation. Suppose a new crop, say cotton, becomes suddenly lucrative, immediately the little proprietors throng to the money-lenders to obtain funds to buy cotton. A new trade is begun by his help, which could not have been begun without him. If cotton ceases to be a good crop, he ceases to lend to grow it, his spare capital either remains idle or goes to some other loan, perhaps to help some other crop which has taken the place of cotton in profitableness. There is no more useful trade in early civilisation though there is none which has such a bad name, and not unnaturally, for there is none which then produces more evil as well as good."

Perry, on page 329 of his Elements of Political Economy, says also:—

"There are some men, and particularly young men, who have intregrity and industry and *skill*, but no capital; and when such men are enabled to borrow money to start themselves in business, or to enlarge a business already in successful operation, the general interests of production, as well as their personal interests are subserved by such credit, because in all probability capital thus passes from hands which are less to hands which are more able to use it productively. Those who are best able to make capital tell are generally those who are most desirous to obtain it, and frequently those who can offer the least security for its replacement Nothing is to be said against, but everything in favour of, such a loaning of capital as shall bring it, under safe conditions, from the hands of the idle, the aged, those indisposed, or those incompetent to use it productively, into hands at once competent and honest. Such credit is a benefit, and only a benefit, to all the parties concerned, and to society at large. The operators retain something of profit after replacing the capital with interest; the lenders receive more than if their capital remained idle, or they employed it themselves; and society is benefited by a more complete development and rapid circulation of services."

The commonest mortgage in this Presidency is the one on the principle of antichresis whereby the profits are taken in lieu of interest. This is the simplest and least open to dispute. It enables the rayat to raise the largest sum at the least sacrifice of his land. But by the Deccan Agriculturists' Relief Act it is absolutely prevented. Hence perhaps the large increase of sales (and transfers by 'Rázinámas') along with a decline of mortgages. The necessity for accounting tends to keep the cultivating class out of the field as mortgagees, on account of their illiterateness and thus to throw the business into the hands of professional money-lenders, but the advantage possessed in other ways by agriculturists as mortgagees enables them on the whole to absorb more and more of this business, as *ex. gr.* in Khandesh as well as in Satara. (See pages 123, 150.)

It must be observed, however, that a very large mass of transactions of the nature of antichresis or akin to it is continuously giving the profits of lands in the Deccan (and in some measure elsewhere) to capitalists without any official evidence of what is going on. For the risk run by the capitalist in such arrangements the agriculturists (the honest ones) have in one or another shape to pay.

The increasing proportion of sales of small properties shows that a gradual agglomeration is probably going on. (See pages 180, 190.)

16. On page 25 Mr. Woodburn speaks of the "increasing profitableness of agriculture leading to increased investment of capital in that industry." The economic tendency here referred to is discussed in other parts of the report (see paragraph 30, etc.), and will be considered further on.

Page 25.

17. Under the Deccan Agriculturists' Relief Act there is no execution against land unless it is expressly mortgaged. The provisions for management by the Collector in cases of insolvency under section 29 are a dead letter; and similarly section 22, clause (2), which provides for the management of the lands of debtors by the Revenue Department, has remained inoperative throughout (page 146). The circumstances of the four Deccan districts are therefore totally different from those of Khandesh, Nasik and Bijapur, and there is not much profit to be derived from the comparisons made in paragraph 16, page 26, comparing sales in execution of decrees in the four districts with those in the other three. In the four districts, as the Judges' reports show (see passages quoted on pages 33 and 34 of these remarks), execution can hardly be had against agriculturists' land, except on recent bonds wherein it has been specifically mortgaged.

Page 26.

As the sales are thus limited, there is, as stated above, no ground for instructive comparison. Appendix D, page 97, shows that there is no excessive or dangerous extent of execution by sales of land in the five districts, and the number of such sales is decreasing. In Bijápur and elsewhere sáwkárs are becoming improving cultivators (see page 34). In some places every capitalist seems to be called a sáwkár, and then again 'sáwkar' has the connotation of usury and extortion. In fact the wealthier agriculturists themselves lend a good deal of money to the poorer ones, as already remarked.

18. Regarding the table at the top of page 27, which shows the average annual number of suits against agriculturists per lakh of land revenue, it is to be remarked that it will be found that the number of suits is increasing as borrowers and lenders are learning to adapt themselves to the provisions of the Deccan Agriculturists' Relief Act. The contrasts within the four districts from 69 in Sholapur to 196 per lakh in Poona, are so striking as to show that the number of suits depends largely on other circumstances besides the Act. The lowest number of suits (30 per lakh of revenue) against agriculturists is in Bijápur, which on page 15 is elaborately proved to be in a declining state.

Page 27.

On page 27 the percentage of suits against agriculturists in the Deccan districts is not given. It is rather greater (see page 45) in the four than in the five districts: Bijapur, where the suits are very few, is arbitrarily excluded. The table at page 91, Appendix D, gives full information. It appears that suits against agriculturists are in Khandesh and Nasik, as well as in Poona and Ahmednagar, less than one-half the whole number of suits instituted. In Sholapur and Bijapur they form a small fraction of the whole. It is unsafe, therefore, to argue from aggregate results to agriculturists' condition; for the aggregate is very largely made up of suits against persons who are not agriculturists.

19. The table in the margin of page 28 shows how little speculative calculations can be depended on. This table shows the number of execution sales of agriculturists' immoveable property per lakh of land revenue, as in reality and as calculated by Mr. Woodburn from certain assumed premises. The difference between the actual and the calculated results is more than 50 per cent.

Page 28.

On page 28 Mr. Woodburn states the conclusion that the proportion of execution sales of agriculturists' immoveable property to total execution sales of immoveable property is probably less in Khandesh and Nasik than in Thana and Ratnagiri. A reference to Appendix D, page 97, shows that in Khandesh 35 applications for execution out of 1,000 result in a sale of immoveable property. In one out of 1,000 execution is made over to the Collector. In Thana there are 48 sales on 1,000 applications for execution. In Nasik there are 29 sales and 10 executions by the Collector on 1,000 applications. Bijapur shows that an increase in sales and mortgages may be a sign of prosperity, or at any rate quite compatible with it.

20. On page 28 Mr. Woodburn says: "there has (in the four districts) been a great diminution in borrowing, showing that the actual cultivators are deriving much more benefit from the export trade * * * than is the case elsewhere." This is a pure fallacy. The proportion of increase in borrowing depends on the augmentation of profit as compared with agumented aggregate of outlay. This may in any particular case be greater or less. But the man who is making R500 a year is of course enriched by borrowing if he can thus net R600 above expenses.

The great increase in exports of agricultural produce has greatly stimulated agriculture in Khandesh, while leaving Ahmednagar and Poona almost unaffected (see page 25). Had capital been as available, the latter two districts must have profited equally with Khandesh or nearly so. Enterprise sometimes takes the form of mortgaging two fields to buy one, or buying one and giving a mortgage for the price on it and other land. Sales and mortgages of the antichresis kind, both as a rule transfer lands to more efficient hands—more efficient, *i.e.*, with reference to existing circumstances. Every considerable change, therefore, in economic conditions must, when alienation is free, be attended with many transfers of ownerships either complete or partial.

21. The statement on page 30 that the prevalence of arson in Nasik indicates unsatisfactory relations between sawkars and their clients is a gratuitous assumption. I do not recollect a case of arson to punish a sawkar in Nasik, but I remember cases for purposes of revenge or spite amongst the landholders. The fact that crimes against money-lenders prevail less in the four districts may be due to the fact that where there are much fewer opportunities to resist there is of course less resistance outside the law.

Page 30.

Ratnagiri is a district wherein money-lending goes on to an enormous extent. But the relations between the lender and borrower are (as shown on page 30) better than elsewhere. The money-lenders are probably entered in another category as Khots or Zemindars. They supply the capital with which agriculture of an intensive kind is carried on. The profits pay the interest and something more. Thus through extensive credit, large benefits are realized.

22. The state of feeling in 1874-75 was bad, but was aggravated by the foolish talk of highly placed officials. *

23. As to the questions in paragraph 18

Pages 30 to 34.

(*a*) Have agriculturists, who have moveable property, not exempt from attachment, *e g.*, milch buffaloes, cows, sheep, any difficulty in borrowing money up to the value of such property whether on the pledge of property or not?

(*a*) As the Act makes it more difficult to borrow, it necessarily adds to the burden on the borrower.

This question points to an impossible or futile pledge of moveable property still retained by the pledger.

(*b*) Have agriculturists who can give no other security besides land, any difficulty in borrowing money on mortgage of the land?

(*b*) The increased difficulty in borrowing on mortgage again implies an extra burden.

The fact that sawkars of districts where the introduction of the Act is feared lend less readily, again shows that money is obtained on easier terms outside the Deccan.

(*d*) Since 1879 has the number of money-lenders been increasing or decreasing? If so, in what class has it been increasing or decreasing, and what are the reasons?

(*d*) A considerable number of the wealthier rayats have taken to money-lending in Satara. They lend on land with better knowledge than others.

It is clear that now in the Bombay Presidency generally, money can be borrowed on good security at a rate of interest that compares favourably with that in the Colonies and the United States. This is a great assistance to enterprise but a temptation to improvidence. The one cannot be had without the other, and if improvident or stupid landowners are to be preserved, that can be done in the long run, only by depriving them of independence and making their estates inalienable.

(*e*) Are debtors and creditors on good or bad terms? Are their relations those of confidence or untrust?

(*e*) On the whole the relations between lenders and borrowers seem much better in the five districts. (See pages 120, 122, 152, 171, 180 and 194.)

(*f*) Are cultivators more or less in debt than they were in 1897? In either case to what causes do you attribute the result?

(*f*) The absence of famine for nine years since 1879, compared with famines for several years in succession before it, is a "*vera causa*" of increased prosperity of more importance than any other (see page 157). A very slight pressure last year produced disquieting effects. This is pointed out by the Special Judge in his report for 1888. The Subordinate Judge of Shevgaon though favourable to the Act, yet anticipates no permanent economical improvement from it. (See page 167.)

* Printed on pages 39 to 42 of the Selections.

Bijapur shows that great progress may be made without the aid of the Deccan Agriculturists' Relief Act, and that the variations in the course of progressive prosperity may be attributed to quite other causes than its operation.

(*g*) Do money-lenders ever take a deed of sale of land as security for a loan, on the understanding that the land shall be retransferred to the cultivator on payment of the debt? If so, is there any risk to the borrower in a transaction of this kind? Cite cases if you think there is.

(*g*) The great increase in the ratio of sales to mortgages may be partly due to the practice here referred to.

When mortgages are subjected to conditions so onerous to the creditor as under the Deccan Agriculturists' Relief Act it is inevitable that sales on a promise of re-sale should be rather common. The history of the Roman Law and of the English Law too shows this. But such sales put the agriculturists completely at the mercy of the sawkar and tend to oust the former. In the five districts they are uncommon because people can make their own bargains. There is no need there to evade the law.

(*h*) Is it customary for rayats to take their produce themselves to market for sale, or is it customary for them to hand over the produce to their sawkars? If both customs exist, is either becoming more marked than it was, and what are the reasons?

(*h*) This is a question of trade development. In Bijapur the cultivators sell much of their own produce, and this is true in some degree of other districts. The great increase in the exportable produce of the five districts or at least of three of them must needs have changed the mode of sale very considerably. European firms now have buying agents at almost every important centre of trade. Deeply indebted rayats must hand over their produce because the creditor has a lien or *quasi* lien on it. The business is carried on thus on terms very like those under which West Indian estates were formerly and many indigo plantations are still cultivated—an agency house furnishing capital at interest and being entitled to the commission sale of all produce. This, however, did not prevent great mercantile development.

(*i*) Are rayats living in better or worse style than they did before 1876? Do they eat more or better food? Do they and their families wear better or worse clothes, or more or less ornaments, ordinarily or on holidays? Do they spend more or less money in going to jattras? Do they spend more or less money on marriages and other ceremonies?

(*i*) The great preponderance of opinion is in favour of the view that the agriculturists everywhere, except perhaps in Nasik, have improved in the material conditions of their life since 1876.

(*k*) Do more or fewer sawkars than formerly cultivate their land themselves? Do they spend more or less money in improving their land?

(*k*) The answers to this question indicate the general economic change that is going on. A little more is spent on improvements in the four districts and much more it seems in the five districts by land-owning capitalists.

24. As to the history of debt in the 12 villages in the Ahmednagar District, paragraph 19 *et seq.*:—In paragraph 21* Mr. Woodburn arrives at the conclusion that wherever on the average the agriculturists' debts do not exceed 15 times the assessment, there is no approach to insolvency. The 12 villages were chosen as typical instances of distress, yet if this test be applied to them there was no need for sale of the rayats' holdings. The debts existing in 1875 could have been dischargd without their parting with the land. It is thus shown that there was no great necessity for the introduction of a special Act. The total debts were R1,32,421 or 15·43 times the assessment (see page 39). In part of course they were covered by other property. But in any case as the agriculturists were on the whole perfectly solvent, it was to be expected that they would gradually pay off their debts. That R19,000 out of R65,000 of debts on personal security or more than 29 per cent. should have been allowed to become barred by limitation, shows the unfair conditions imposed on the creditors which prevented their suing with a prospect of success. It must be borne in mind that these are not disputed claims but debts approximately ascertained.

Pages 34 to 44.

"The rate of interest on unsecured debt has always been very high, indicating that lenders do not expect to recover the full amount of their nominal loans" (page 36). Mr. Woodburn does not seem to have caught the true significance of what he here says; sawkars charge high interest because they do not expect to recover at all a large proportion of their loans. Thus the honest borrower who repays all, pays for the dishonest or unfortunate one and for the defective means of bringing recusant debtors to book.

* Printed on page 48 of the Selections.

The paragraph on page 36 beginning "Some of the unsecured debts" is absurd. Mr. Woodburn makes out that R170·8 would be a good return, principal and interest, at the end of eight years, for a loan of R100, at 18 per cent. simple interest allowing that R30 of the principal was lost and gave no return. The creditor would have himself to borrow at about 8 or 9 per cent., so he could only have lent even at a higher rate than that with yearly rests, *i.e.*, at compound interest. At the end of 8 years, therefore, he would, on Mr. Woodburn's assumption, be a considerable loser. For in 8 years R100 at 8 per cent. compound interest amounts to R185 (nearly). This is what the sawkar would pay, whilst he would receive only R171 (nearly).

The method of reducing the debt and interest to a single transaction settled after 8 years is demonstrably wrong. It implies the sawkar's getting his full interest and being able to use it after 8 years, whereas the realization of it extended over 8 years more.

An average of 18 per cent. interest obtained from six owners implies the kind of business carried on by petty sawkars, themselves paying large interest as compensation for bad security. This class is referred to at page 39.

The two tables on page 38, which relate to the payment of debts in these twelve villages, show according to Mr. Woodburn that the greater the creditor's means of recovery the less he recovers. What it really shows is that the creditors have been timid in suing except for wholly unquestionable and irresistible claims. The decrees obtained before the Deccan Agriculturists' Relief Act came into force were in many cases no doubt obtained against persons who were thus sued in order to enforce payment in ways from which they were relieved by the Act, and who would not have been thought worth suing had the Act been in force.

The great reduction in the percentage of recoveries by the sale of the debtors' land simply shows that there is virtually no execution in the four districts against land except on mortgages and even on mortgages execution is mostly defeated by orders for payment by instalments under section 15 (*c*) of the Deccan Agriculturists' Relief Act. Of course the agriculturists have for the time being (or at least the dishonest and incapable sections of the class) benefitted greatly by this virtual *seisachtheia*. But if the lands were to be made inalienable, that might have been done in a more direct way.

It appears from Appendix D, page 97, that in the case of only 38 applications out of 1,000 is land sold in execution in the five districts. In only 24 out of 1,000 is it attached and subsequently released. This shows a surprisingly slight tendency to resort to the land under the ordinary law—nothing to call for special interference.

Of the 473 occupants in the 12 villages, whose debts were enquired into in 1876, 47 have disappeared (page 39). These 47 were the feeblest. Their debts would of course be greatest in proportion to means. To the debts of the 371 occupants, the number to which the original 473 are reduced after eliminations, a certain percentage should be added as they are stronger than the average. Many debts must be time-barred. These would be about $\frac{1}{4}$ (see page 35). How far have the debtors sold their lands and so lessened their means in paying their debts? Apparently about $\frac{1}{18}$. In cases of death, partition, emigration, etc, the creditors must frequently have been forced to a compromise. Of 500 firms existing in 1875 about 200 would have become insolvent by 1889. The remaining 300 would not afford by themselves a fair specimen of the general prosperity. It is not shown how many of the 371 holders of land have other pursuits and sources of income. The occupants now held roughly $\frac{17}{18}$ of the land they formerly held and pay about $\frac{9}{8}$ of the former assessment for it. Their economic condition may, therefore, be considered $\frac{8}{9} \times \frac{17}{18} =$ as good as in 1875. Their debts are about $\frac{92}{132}$ of what they were in 1875. If these fractions be reduced to a common denominator the difference (about $\frac{115}{152} = \frac{136}{162}$) is not greater than is accounted for by the several years of prosperity which have done so much for the neighbouring districts. A railway has been made as in Bijapur.

pages 34 to 44.

The special difficulties interposed by the Deccan Agriculturists' Relief Act in the way of wasteful borrowing have equally been obstacles to useful borrowing. Nowhere else would a diminution of credit be produced as a proof of prosperity. It accords with economic principles that those who are spared by a famine or other devastating calamity always enjoy afterwards an abnormal access of prosperity, although Mr. Woodburn seems to think (page 40) that the contrary would happen.

The increase of 50 or 60 per cent. of debt in the two villages of Parner and Kadus and especially the great increase of debt unsecured, shows that the Deccan Agriculturists' Relief Act affords no specific against debt when altered circumstances favour it. It affords a violent temporary relief. Then a way is found round it and the old process is renewed under new forms. It appears that although the number of those who have decreased their debts is considerably the greater, yet the debts of the class who have not thus escaped are on an average greater than ever. And it is the poorer and petty debtors whose burdens have thus about doubled, while those of the comparatively opulent class have diminished.

The burden is not on the land when the loan is on personal security. But moreover many occupants hold land who have other property. Indeed there are hardly any mofussil families who do not hold some land. To represent the debts of owners or co-owners who have other resources, as burdens on the land, the course adopted by Mr. Woodburn is obviously erroneous. It appears that in a multitude of cases the beneficial interest in a field belongs to a relatively rich man, while the almost pauper occupants' name is retained on the revenue register. Hence the capacity to bear the burden may be quite different from what would be deduced from the circumstances of the formal owners.

The table at the top of page 41, which represents assets of indebted occupants at 15 times the assessment of the land they occupy, must be in a great degree purely conjectural. Fields that have lain for many years unsought and have only lately been taken up, as also such as have been taken up and dropped, have obviously no appreciable selling value. This is the case with many holdings sold for arrears of land-tax. Where on the other hand great improvements have been made the land may be worth fifty times the assessment.

It is stated on page 41 that the credit of those who are able to borrow is as good as formerly. It is clear that loans on mortgage are greatly out of favour owing to the provisions of the Deccan Agriculturists' Relief Act, and this acts as a comparative premium on loans of other kinds, as well as on sales. There has been a continual increase of culti vation and of the value of land and a great increase of mercantile activity, so that, normally, mortgages should have greatly increased. The personal credit cannot be measured as against what it was, by the proportion of unsecured debts as compared with secured debts now, but by the proportion of unsecured now to unsecured formerly. And as the unsecured debt has diminished, it would follow (on an appraisement of credit by debt) that credit has obviously fallen. All that really comes out is that the increased difficulty of borrowing is about the same as to each class of loans, secured and unsecured. It appears from a comparison of the table at the foot of page 41, with what follows, that about 30 per cent. of the agricultural class are out of debt and 70 per cent. in debt. The proportion of debt to assessment affords little or no guide.

All calculations on a comparison of aggregate or average indebtedness, to aggregate or average land-tax, are useless for determining the position of the poorer class. It is like comparing the average depth of a river with the average height of men who have to cross it on foot. The poorer holders who have gravitated downwards as they inevitably do, to the least profitable holdings, may be and often are tenants of fields worth only twice or thrice the assessment or having no market value at all; while the more profitable holdings, which are worth thirty times the assessment, fall into the hands of the more opulent villagers. The average selling value may thus be high in proportion to the average assessment, while a large class of cultivators are on the brink of starvation or go deeper and deeper into debt, as it seems from paragraph 20 that the poorer rayats actually do. If we apply a similar method to a city and endeavour to determine the condition of the class needing protection, by comparing the average debts of the whole population with the average rents paid by them, the futility of the method becomes obvious.

The property held plus their land by survey occupants is almost entirely in the hands of the more opulent. It may be derived from and connected with quite other pursuits than agriculture. A general appraisement of it affords little or no help towards determining the economic condition of the lower strata of the purely agricultural population.

Regarding the table at the top of page 42 which classifies holders of the twelve villages into (i) those free from debt and those in debt not more than 10 times the assessment, (ii) those in debt 10 to 20 times the assessment, and (iii) those in debt more than 20 times the

assessment, it is obvious that one rayat may be far more heavily burdened with a debt of ten times the assessment than another with a debt of twenty times the assessment. Ten or even five times the assessment of the poorer holdings may in many cases be more than their whole selling value. The fallacy of the method of comparing debt with assessment comes out if we suppose the assessment doubled. Then the burden of debt appears only half as great, while in fact it is much greater because of the larger exaction of land-tax.

The table at the foot of page 42 shows that professional money-lenders have a smaller proportion of the land than formerly. They do not desire to be the owners of scattered plots of land and therefore they sell whenever they can gain by it. It is plain, too, that when once Sawkars of the classes connected with agriculture come into the field, purely professional money-lenders like the Márwáris are likely to be driven out, as their competitors can manage land better. This has been seen in Sholápur and Khándesh as well as in Ahmednagar.

25. Having dealt with the account of the 12 villages in Ahmednagar in 1876, and now, Mr. Woodburn turns to a general consideration of the effect of the Act on Litigation. The creditor being by the Deccan Agriculturists' Relief Act placed at such a disadvantage, both in suing and executing a decree, it may well be as the figures treated of in paragraph 23 suggest, that he gives up just claims in many instances where in other districts he would sue and enforce them. But page 45 shows that proportionally to other classes more suits are instituted against agriculturists in the Deccan than elsewhere. For the low number of suits compared with total population there must accordingly be some cause quite independent of the Deccan Agriculturists' Relief Act as a measure of relief to agriculturists.

Pages 44—45.

On page 45 Mr. Woodburn notes that although the increase in the value of suits on accounts is proportionately greater in the four districts than in the five, the increase in the number of such suits is proportionately less. The increase in the two cases is attributable to different causes ; in the four districts, to the uselessness of bonds under the Deccan Agriculturists' Relief Act ; in the five districts to the natural growth of mercantile activity, which concurring with the other causes ought to have produced a much greater increase in the Deccan, had mercantile progress here kept pace with the progress elsewhere. *It must be* borne in mind that everywhere suits against agriculturists are less than a moiety of the whole litigation. The increase in the average value of suits on bonds and accounts in the four districts, shows that suits of that class of small amounts have been fewer on account of their hopelessness. Paragraph 20 shows that the smaller debtors have been augmenting their debt very considerably and, therefore, the conclusion stated on page 45 that small loans to poor men are decreasing is erroneous. From this erroneous conclusion Mr. Woodburn argues that the check to borrowing has been most felt where it was most needd. But the whole argument is inconclusive unless we know the proportion between agricultural and non-agricultural populations and the amount of the suits against each class in each group of districts. Fewer suits may represent a vastly larger amount in dispute or the reverse.

No doubt the Deccan Agriculturists' Relief Act favours redemption suits greatly. They could, under the rules made by Government be brought almost gratis. The provisions of the Act and the rules as to institution fees were such that the mortgagor might hope to get back his land for nothing. In many cases he did get it for nothing. In some the mortgagee was even ordered to pay money besides, until this was stopped by the High Court. The arbitrary assumption was not uncommonly made that half the original principal was really accumulated interest (see pages 146 and 156). The annual profits were guessed at (see pages 147 and 174). On the same data or want of data different Subordinate Judges came to widely different conclusion. There was thus a good chance for any mortgagor. If the decision should not be favourable enough, he could let it alone. It does not appear in how many case or to what proportional amount redemption has been actually effected. It falls far short of the number and amount of the decrees. The Special Judge in his report for 1888, paragraph 23, thinks it may amount to one-half. The excess of redemption suits in Satara is due to the fact that in this district institution fees have not yet been demanded.

Pages 45—46.

On page 46 it is stated that in 8 years a mortgage debt of ₨30,00,000 was settled at ₨21,00,000, but the relief afforded by redempsion suits was greater than is here shown, for the suits having been valued by the mortgagors were greatly under-valued. Probably 50 per cent. of the amount secured has been cut off (see page 174). The sums advanced were in not a

few cases themselves borrowed captial. Unless then the Sawkars as a class were outrageous swindlers, they must have been grossly ill used under the special law. Such a violent transfer of capital would naturally produce prosperity amongst the recipient class for some years (see pp. 150, 155, 156). The losers are impoverished (see page 162). Unless they were cheats and robbers, the State has failed to afford them the protection to which they were entitled and on which civilization and economic progress must ultimately depend.

It appears that litigation altogether, which has been taken elsewhere as a sign of mercantile activity, is more active in the five districts generally, than in the four. But the aggregate turns out insignificant when particular districts are compared. In Ahmednagar the proportion of suits against agriculturists is year by year greater than in the neighbouring district of Khandesh, where it is about the same as in the other neighbouring district of Nasik. In Sholapur the proportion of suits against agriculturists is greater than in the neighbouring district of Bijapur. If one is to judge by a comparison of the districts whose situation in other respects is most nearly alike, the effect of the Deccan Agriculturists' Relief Act is, while discouraging litigation generally, to augment the proportion of it bearing on the agricultural class, which was meant to be specially protected.

The abstract given as a table on page 46 showing the percentages of suits ending favourably and unfavourably to defendants, is instructive in several ways. Three per cent. only of suits were after contest decided in favour of defendants in the five districts ; this shows conclusively that there is no general tendency on the part of creditors to bring unfounded claims. Even the 7 or 8 per cent. of failures of the plaintiffs to obtain decrees after contest in the Deccan Courts, is not more than can be accounted for by accidental defects of proof. The results compare very favourably with those in the English Courts.

Of the contested suits about five or six in each group of districts are decided for the plaintiff to one decided for the defendant. The Special Judge in his report for 1888, paragraph 20, points to this as a 'normal tendency.'

Such being the results, even in cases of resistance, it is not surprising that in the five districts in more than half the cases the defendants do not appear. It is perfectly clear that as a rule they have no honest ground of resistance to the claims. Why then should they incur expense and risk in opposing them ?

When the defendants are forced to come up under the Deccan Agriculturists' Relief Act and the Subordinate Judge makes out a defence if he can, for them, the result is thst he is after all forced to decide for the plaintiff in twice as many cases in proportion, as he is in the five districts.

In many instances, however, the creditor is unable to resist the pressure brought to bear on him. Consequently he is forced into compromises in four times as many cases in the Deccan as in the five districts. Where under normal conditions of litigation only 3 per cent. of claims are found to be unsustainable, the probability is that the 8 or 9 per cent. of compromises in the five districts approaches much more closely to distributive justice than the 35 per cent. in later or even 22 per cent. in the earlier years of the Act in the Deccan. A great part of the 35 per cent. of compromises as well as of the 41 per cent. of contests decided for the plaintiff, ought to have been simple and inexpensive *ex-parte* decisions in the plaintiff's favour.

The same table tells us that claims wholly or partly unfounded have in 6 or 7 years increased about 50 per cent. under the Deccan Agriculturists' Relief Act, while in the five districts such claims have slightly diminished and are but ⅓ or ¼ as numerous in proportion as in the Deccan. It is not likely that the case really is so. Tabular statements may mislead as well as instruct.

Form D* 3 at pages 94-5 shows that for 1886-87 in the Poona District the claims decreed on confessions against non-agriculturists exceed by 50 per cent. those so decreed against agriculturists. On the other hand, the compromises by agriculturists exceed by 75 per cent. those of non-agriculturists. It cannot be supposed that there was any material difference in the justice of the claims brought by creditors against the two classes : or that the non-agriculturists who are mostly of the urban class, admitted false claims. It follows that a large proportion of the compromises ought to have been cases of concessions of claims and that creditors have been cheated of the difference.

* Printed on pages 105 to 109 of the Selections.

In Ahmednagar the confessions of claims by non-agriculturists are more than three times as many as by agriculturists, while the compromises by agriculturists are about 60 per cent. in excess of those by non-agriculturists. This leads still more strongly to the conclusion already stated. In Sholápur the compromises by agriculturists were about ¾ of those by non-agriculturists; the admissions of claims were but ⅙ as numerous. In the neighbouring district of Bijapur the proportion was about ⅔ in each class and this equality of proportion points to an equable operation of the law of procedure, as strongly as the different results in Sholapur point to inequality and unfairness. In Khandesh and Nasik the ratio of the proportions of compromises and of confessions of claims by non-agriculturists, as compared with agriculturists, shows a great excess of compromises in the cases of claims against the urban class of debtors. This would naturally be so under normal conditions, owing to the greater complexity and uncertainty of mercantile dealings.

A large proportion of the confessed claims are really instances of compromise. The creditor and debtor come to terms before the day of hearing, and the debtor admits the claim, or judgment is allowed to go by default and the creditor enters up satisfaction when the debtor fulfils the terms of the new agreement. Compromises are by all means to be encouraged, but they should be compromises on approximately equal terms, not forced on a creditor by a law expressly devised to cut down his claims and landed because it does cut them down whether just or unjust. The large proportion of compromise claims against the non-agriculturist debtors in Khandesh shows that this mode of settlement can be extensively carried out under perfectly equal conditions. This points to an encouragement, by easy terms as to fees, of settlements by confession and compromise, not only amongst agriculturists but amongst all classes. Such settlements are not specially appropriate to suits against agriculturists only as the returns from the Courts working under usual conditions plainly show.

Page 46.

In carrying out the sections of the Deccan Agriculturists' Relief Act which leave so much to discretion and conjecture, the Subordinate Judges in their blank helplessness when data failed, have resorted to mechanical modes of dealing with the claims brought before them, *e.g.*, by assuming that the expressed consideration of an old bond was half principal and half interest (see pages 149 and 156). It is obvious that as this system became general, the creditors would be more and more driven to compromises, however, iniquitous they might feel them to be. It is not to be supposed that in the later period the just claims were only in a proportion of one-half as numerous as in the earlier period, and yet the confessions were less than half as numerous. The reason of the difference is that the rayat debtors had been taught by experience to deny the most righteous claims instead of admitting them. This was the advantage they possessed and abused. (See page 164 quoted below. See page 31 of these observations.)

The universal opinion of the Subordinate Judges that the judgments by default imply no defence, is supported by the fact already noticed of the remarkably small number of decisions wholly rejecting the creditors' claim.

There is a confusion of thought about compromises and contested cases. Compromises are usually arrived at during the contest, and when under the Deccan Agriculturists' Relief Act the creditor finds that he must be largely mulcted, he is driven to a compromise. As the judgments by default indicate just claims, so the very small proportion of them and the large proportion of compromises and judgments for the defendant indicate false or artificial defences.

An average of 40 per cent. of *ex-parte* decisions is not at all remarkable, looking to the extraordinary development in India of petty credit; to the dilatory habits of the people and to the general justice of the creditors' claims as shown by the results of contested cases. Under the Deccan Agriculturists' Relief Act the defendant is compelled to appear. The Subordinate Judge makes a defence for him, if he possibly can. He has to presume everything against the plaintiff. It is impossible, therefore, that there should be many *ex-parte* decrees. What seems probable is that in 25 or 30 per cent. of the cases the agriculturist defendant is tempted or forced into a defence which he knows not to be quite honest. (See pages 164 and 171.)

The more righteous a suit is, the less likely (outside the four districts) it is to be defended; therefore a rise in the proportion of *ex-parte* decrees indicates a growing probity on the part of creditors who have to become plaintiffs.

26. It appears from the table on page 47, which shows the duration of contested and uncontested suits, that as a general rule the duration of suits in the districts under the Deccan Agriculturists' Relief Act is distinctiy longer both in contested and in uncontested cases than in the others.

Page 47.

27. The table on page 48 shows the amounts claimed, the amounts awarded, and the percentage abatements in suits of different classes, under the Deccan Agriculturists' Relief Act. In money suits the abatement was 27 per cent. of the claim; in suits for the recovery of mortgaged property it was 28½ per cent. In considering whether such an abatement is in reality a cause of congratulation it is well to bear in mind what the Judges say.

Page 48.

Mr. Crowe, the Judge of Satara, rightly observes:

A custom has, therefore, sprung up, which is even alluded to by some Subordinate Judges, as a "rule," of estimating that half the amount of a debt represents principal and half interest. In a recent judgment—Mahadu valad Vithu v. Rajaram valad Wadjaram (High Court Printed Judgments, 1887, page 216)—the High Court have ruled that the Act when it bids the Court 'to enquiry into the history of the case does not intend a defective history to be eked out by mere guesses such as have led the Subordinate Judges in the case in question to widely different conclusions......

(*e*) Next as to the estimation of the profits. In most cases it is absolutely impossible to arrive at any just conclusion from the oral evidence tendered by litigants" (see pages 146-147).

Again he says,

In some casses, looking to the means of the judgment debtors, the amount of the instalment has been fixed so low as to amount to a positive denial of relief to the judgment creditor altogether, the annual amount not being in excess of a fair and reasonable interest on the principal sum awarded in the decree (see page 147).

And again,

As regards the effectual enforcement of decrees, it is hardly too much to say that there is no real method of executing decrees under the Act. Everything has been in favour of the agriculturist in the process of litigation up to the pronouncement of the decree. The creditor then finds that he is unable to touch the debtor's person, or his cattle or house, nor, unless the debt is specially secured, his land. The majority of agriculturists who figure as debtors in the Courts have no moveable property whatever. The consequence has been that unsecured debts cannot be realized at all. (See page 148.)

Mr. Walker, the District Judge of Ahmednagar, says:

The greatest number of redemption suits, and of suits on bonds which sprang up after the Act, were decided on the simple plan of taking half the amount of the last bond as principal and half as interest. It was not till 1887 that the High Court checked this practice, and it became possible for the money-lender to receive something like the sum fairly due him on his mortgage...... (See page 156.)

There is far less certainty, under the Act. All pleaders agree that they are quite unable to give any idea to their clients what the decision will be under the Act. Under the ordinary law it is easy to calculate the amount due on a bond or to predict the result of a suit for redemption; but under the Act, as one of the Subordinate Judges says, "there is a vast field of disputes" opened up.

It is a common case where the lower Court allows the agriculturists to recover possession without any payment and the appellate Court finds a considerable sum due, or *vice versâ*.

The greater delay and want of certainty under the Act, the enforced attendance of parties, and the obstacles placed by the Act to the effectual enforcement of decrees, all tend to parass at least one party to the suit. (See page 174).

The power given by the existing Act to set aside contracts and reduce interest, without any principle or standard for the guidance of the Courts, should be discontinued. Where contracts have been deliberately entered into since the Act, before officers appointed under the Act and in the mode provided by the Act, there is no necessity whatever to require the Courts to set aside those contracts without proof of force or fraud or undue influence. (See page 176).

The Subordinate Judge of Shevgaon (generally favourable to the Act) says:

Agriculturists in almost every case plead payments, saying that the money-lender refused to give them receipts for the same, and then they call a number of their friends and relatives to swear to these alleged payments. Hard swearing has thus become the order of the day and the demoralizing effects thereof must be incalculable. (See page 164.)

The Subordinate Judge of Parner says:

The view that payment of eight annas in the rupee to the creditor is substantial justice was for several years much in favour with the special administrators of the Relief Act. In hundreds, perhaps thousands, of suits in which the bonds disclosed the existence of previous transactions, which, however, could not be ascertained, it was for several years customary to hold that half the amount of the bond was principal. This had

quite become a *lex fori*, until the High Court pointed out the illegality of such a mode of inquiry. (See page 168.)

And

It cannot be foreseen how far back the Court will trace the history of the transaction; what rate of interest it will allow in redemption suits, what net profits it will estimate. Neither party, therefore, can be sure of his facts, and consequently there can be no prediction of the result with any thing like reasonable certainty. (See page 169.)

Mr. Tagore, the Judge of Solapur, says:

In most of the cases governed by the Relief Act the probable issue on given facts cannot be predicted with as much certainty as in cases governed by the ordinary law . . . . . The investigation involves divers points of fact dependent on the evidence the parties choose to offer. The same remark applies to redemption and foreclosure suits. (See page 179.)

Mr. Baker, the Judge of Nasik, says:

In many cases it is impossible to ascertain the real history, and the Courts have to go by guess-work. This is opposed to the ordinary principles upon which the administration of justice is founded, and creditors would be likely to refuse to lend money at all, knowing that their claims would be liable to be arbitrarily reduced. (See page 185.)

Mr. Wagle, Subordinate Judge of Gadag, but formerly employed in the Deccan, says:

There have been many cases under the Relief Act in which one tribunal took a different view to that entertained by another on the same state of facts . . . . . There should be the greater probability of a decision being uncertain under the Relief Act than under the ordinary system, for the obvious reason that the provisions of the former enactment unlike the latter give unfettered discretion to Courts to modify private agreements in such a way as they may think proper and just. (See page 189.)

It is impossible under such a system that the claims should not in many cases be unjustly cut down.

Mr. Woodburn says:

The reduction in percentage abatement is due chiefly to the exhaustion of old transactions. See page 48). What it really means is a reduction in the transactions in which the Subordinate Judges are driven or invited to mere guess-work. Were the Act newly introduced into any other district, the guess-work there would have to be done over again.

28. It is stated that in the Deccan, in executing decrees, in a larger proportion of decrees against agriculturists, satisfaction in full is obtained, than in decrees against non-agriculturists (page 48.)

The larger proportion of cases of "satisfaction obtained in full" in the Deccan, is due, in a great measure, to the large number of compromises and of decrees cutting down the claims. Partly also to prudence in making applications. The proportion of the amount recovered to that of the decrees, is quite different.

Page 49.

When the Special Judge says (see page 48) the creditor in the Deccan is "nearly as well off" as elsewhere, he shuts out of consideration the most material part of the case. A creditor is governed, in applying for execution, by his anticipation of what he can get. His calculation is as likely to be correct in the Deccan than elsewhere. The argument of Mr. Ranade takes no account of the far greater proportion of the creditors in the Deccan than elsewhere who are kept by the provisions of the Act from seeking execution at all. For they know the hopelessness of attempting to realize anything. The Judges of the four districts are unaminously opposed to Mr. Ranade's view.

Mr. Candy, the Judge of Poona, says:

But as to effectual execution, the complaints are numerous. There is so little to be obtained in execution and so much time and trouble are wasted in obtaining that little. (See page 138.)

Mr. Walker, the Judge of Ahmednagar, says:

Where the agriculturists had not mortgaged their property, they were almost completely exempted from payment of debts, for their lands could not be sold and they themselves could not be arrested or imprisoned. Their cattle were generally exempt from attachment under the Civil Procedure Code then in force, and other property the indebted classes had but little use of, and they availed themselves of every stratagem in preventing its attachment and sale. Where the agriculturists had mortgaged their property they were relieved by the setting aside of their contracts and an investigation into the amount of the debt by the wholesale reduction of interest and permission to pay the debt by instalments, and in some cases by possession being given even before the mortgage debt had been paid off. (See pages 155-156).

The Subordinate Judge of Shevgaon says:

The recent amendment of the Civil Procedure Code, leaving it to the discretion of the Court whether a judgment-debtor shall be arrested and imprisoned in execution of a decree, reduces the difference in

this respect between an agriculturist and a non-agriculturist to the most minute proportions. And I do not think that if in this respect the special provision in the Relief Act were withdrawn there will be any special hardship to the agriculturists. (See page 160.)

The Subordinate Judge of Parnar says:

The Relief Act not only reduces the amount of the creditor's claim, but leaves him almost nothing out of which he can obtain satisfaction even of such reduced amount. I cannot persuade myself to call this the attainment of substantial justice. (See page 168.)

And

Until the Relief Act is put on a par with the Civil Procedure Code as regards the property liable to be taken in execution of decrees, the Act must continue to be inferior to the Code as regards the attainment of justice.

And again:

After decree, the proceedings are divided between two authorities. If the decrees are simple money decrees, they are executed by the Court. In such cases there is not much difference, in point of time, between the execution of decrees passed under the Relief Act and other decrees—except this, that the agriculturist having very little seizable property, execution is liable to be infructuous. If the decrees order the realization of a charge on immoveable property, they are sent to the Collector. Execution of such decrees by the Collector is much more dilatory than execution of similar decrees against non-agriculturists by the Court. (See page 169.)

Mr. Tagore writes:

With regard to the execution of decrees, I think a decree-holder is greatly impeded in getting immediate relief given him under the decree. Some of the sources from which decrees under the ordinary law are satisfied not being available to the holders of decrees against agriculturists, their decrees in many cases virtually remain dead letters. Add to this the practice of allowing instalments in mortgage decrees which often extend over ten or twelve years. (See page 180.)

The Subordinate Judge of Gadag says:

As to enforcement of decrees (*b*) decrees under ordinary law can be much more effectually and in much shorter period executed than under the Relief Act. (See page 189.)

These opinions afford a sufficient refutation of the view adopted by Mr. Woodburn that judgment-debtors are still liable to be overreached by judgment-creditors.

It appears that the process of speculative execution takes place in one half the contested suits. These are but about one-third of all instituted under clauses (*w*) and (*y*), yet the result is to cut off about 28 per cent. from the total amount of all the suits of this class. The execution of one-sixth of the suits is wholly infructuous and results in cutting down more than one-fourth of the whole amount claimed.

In 1887 there were 4,731 suits under clauses (w) and (y), of which 1,779 were contested (page 47.)

All the advantages of uncertainty are on the side of the debtor, as the creditor's claim cannot be exceeded.

Mr. Ranade is of opinion that execution out of Court perpetuates a system of predial serfdom, but there can be no "predial serfdom" under the ordinary law as it now subsists. A rayat can free himself readily from all obligations by insolvency (see Code of Civil Procedure, sections 344 to 357).

The taking of a fresh bond in satisfaction is not (as stated by Mr. Woodburn on page 49) illegal (see p. 52). It is common and legal and extinguishes the judgment-debt when certified. If not certified, the consideration fails (as ruled by the High Court) and the bond, therefore, creates no obligation.

The apprehensions of the creditors in respect of instalment decrees, that other creditors may step in and obtain execution against their judgment-debtors' estates (page 49), are quite justified, for without a lien they may be and are defrauded by means of collusive suits and executions as well as by honest ones.

29. Section 210, Civil Procedure Code, makes sufficient provision for instalment decrees, except in special cases of entirely altered circumstances.

Page 50.

The Special Judge stated in 1884 (see page 50):

I have seen instances in which a creditor has agreed to receive payment of R200 by yearly instalments of R5. This is simply a *reductio ad absurdum* of the system. R5 a year is far from being even the bare interest on R200. It is an improper thing for a Court to recognize a rate of interest as allowable and then defeat it by a side-wind. Extortionate interest ought to be cut down by a direct order.

The Special Judge shews (see page 50) that his subordinates apply a merely arbitrary and fanciful remedy, *i.e.*, they allow or disallow interest on the amount decreed as they may think fit, which must be of very unequal operation, to an evil which ought to be dealt with by cutting down extravagant and extortionate claims.

As only one in five of the judgment-debtors "pays the instalments *with more or less* regularity" (see page 50), it is plain that the order precluding the creditor from any prompt action, is used as a means of defrauding or defeating him in the remaining four cases out of five. Yet the Special Judge thinks he is nearly as well off as elsewhere.

It follows from the decisions of the High Court that if a judgment-creditor does not certify payment in satisfaction, or towards satisfaction, the judgment-debtor may recover the money. The risk therefore of paying is very slight indeed, though Mr. Woodburn (page 50) seems to think there is considerable risk of the payment being appropriated to other debts than that under the decree.

If fraud is made use of by judgment-creditors, the result is substantially the same everywhere. If not, the only difference is that harassing impediments are placed by the Deccan Agriculturists' Relief Act in the way of realizing what has been decreed as justly due.

Page 51.

30. The table at the top of page 51 shows the number of sales of immoveable property in execution of decrees throughout the Presidency from 1871 to 1887. There are some districts in which the execution of decrees against rayats has not been made over to the Collector under the provisions of the Civil Procedure Code. Comparison of sales of land there with elsewhere should if possible be made. The second table on page 51 shows that in seven specially bad talukas, prior to the Deccan Agriculturists' Relief Act, the decrees which remained unexecuted as long as 7 years were only the hopelessly barren ones, on which virtually nothing could be realized. Now, it would seem, protracted execution (recognized as a great evil) goes on in the Deccan to about 6 times the former extent, as judged by the proportionate net amounts realized.* As Form No. 6 (page 99) does not distinguish the classes of judgment debtors, it is almost useless.

* The table on page 51 shows that the percentage of net amount realized was in the seven Courts 1·4 and in the Deccan Courts 8·8 or about six times as much.

If, however, we compare neighbouring districts, we find that in Khandesh the percentage of realizations on old decrees is about double what it is in Ahmednagar; while in Bijapur it is only ⅓rd of what it is in Sholapur. Such results are too contradictory and uncertain to build on.

The same table shows that in the five districts the realizations are 47 per cent. more than in the four districts of the Deccan.* The whole of this difference, however, virtually arises in agriculturists' suits which are less than half the whole number. It is obvious then (and the precise figures should have been set forth) that execution as against agriculturists must be almost wholly infructuous, under the Deccan Agriculturists' Act.

* 10·2 per cent. was realized in the four, and 14·9 per cent. in the five districts.

Execution is the sanction of the law. In proportion as it is effective men are kept up to their engagements in thousands of cases that never come into Court. When it is ineffective the whole moral effect, as distinguished from the immediate material effect of the sanction, is lost.

The tables, Forms Nos. 7 and 8 (pages 100 and 101), are as uninstructive as any that could be devised. Sections 16—22 of the Deccan Agriculturists' Relief Act prescribe a wholly different law of execution for cases in which agriculturists are concerned from that applicable to other cases. Suits, however, under Chapter II of the Act may as well be brought against non-agriculturists as against agriculturists. Agreements under section 44 again are made only in agriculturist cases. Yet in the tables (Appendix D, Forms 7, 8) all these are mixed without distinction. The real operation of the peculiar and characteristic clauses of the Deccan Agriculturists' Relief Act is thus hidden away amid the larger number of cases on which they do not bear.

Section 7 of the Act requires defendants to be examined in all but special cases. Form 7 shows such examinations in almost twice as many cases as are shown in the same form to be in any way contested. In the uncontested cases the defendants must have been called away from their fields and occupations needlessly.

Appendix D*, Form 8, is still instructive when its significance can be extracted. Thus it was said* when the Deccan Agriculturists' Relief Act was introduced, that management of a rayat's lands by the Collector so as to pay off his debts out of the profits was to be regarded as the keystone of the structure proposed. Now it appears that in 1884 and 1885 the applications of all kinds against agriculturists and others in the Deccan under which satisfaction was thus obtained or ever sought, was less than one in a thousand. In 1886 and 1887 they were rather more. How many of these cases were such as to fall under section 22 of the Deccan Agriculturists' Relief Act does not appear; but the number must be quite insignificant. The keystone section in fact is virtually a dead-letter, except as defeating execution. This illustrates what Mr. Herber Spencer writes: "unfortunately the results of legislative intervention are not only negatively bad, but often positively so. Acts of Parliament do not simply fail; they frequently make worse." Again: "In the efforts to cure specific evils, legislators have continually caused collateral evils which they never looked for." And again: "On all sides are well meant measures producing unforeseen mischief."

* Speaking of clause 2 of section 22, Mr. Hope said in the Legislative Council of His Excellency the Viceroy and Governor General: "In short, I look upon this provision as the keystone or test point of the Bill." (Proceedings, Volume XVIII of 1879, page 305.)

Page 51.

(From H. Spencer's Essay on Over-legislation in Volume 2 of his Essays, Scientific, etc.)

The same table shows that the sales of land in execution of decrees have increased steadily of late years—by more than 200 per cent. from 1884 to 1887. The cases in which payment was enforced by attachment of land increased by 150 per cent. in the same four years. Now as an agriculturist's land can be sold in execution only when specifically pledged, we may find here some confirmation of the general opinion of the Judges that money-lenders insist more and more on specific mortgages, which become instruments eventually for evicting the cultivators, or leaving them in possession merely for the benefit of the creditors.

The number of arrests in execution of decrees is remarkably small, even allowing for the immunity enjoyed by agriculturists under the Deccan Agriculturists' Relief Act. Perhaps one in fifty of the judgment-debtors liable was actually arrested, and of these four out of five or thereabouts were able to pay without going to gaol. That on 31,000 applications for execution there should be imprisonment in only 46 cases in 1887 is a decisive proof of the absence amongst creditors of that brutal tendency to gross abuse of their powers which had often been imputed to them.

31. On pages 52 and 53 Mr. Woodburn treats of the kinds of fraud said to be common by the Riots Commission.

Pages 52-53.

(*a*) It seems not unlikely that the Subordirate Judge of Kopargaon, who says that this plea was proved in 17 per cent. of the cases in which it was made, leans over much towards the defendant's side. His experience, as stated, differs in this respect very materially from that of other Judges.

(*a*) The creditor omits to give credit for payments made by the debtor.

The contradiction of statements as to payments usually arises from payments being made without a specific distribution. The creditor naturally applies them to the oldest account or the one most hazardous under the Deccan Agriculturists' Relief Act.

(*b*) This form of fraud is common nowhere. In the contract of *antrichresis* which, as some of the Judges say, is the most common form of mortgage, there is no obligation on the mortgage to keep accounts. It is the form most suitable to this country, being simple and invariable.

(*b*) The creditor refuses to show accounts to the debtor.

(*c*) Decrees on bonds in which the consideration is wrongly recited are common and inevitable. They are used in all countries and are not necessarily dishonest. When both parties agree the law is just easily evaded in transactions before a registrar or a conciliator.

(*c*) The debtor does not receive the consideration named in the bond.

(*d*) This is common nowhere. Such a conditional satisfaction as this would probably not be upheld by the Courts, but there is nothing fraudulent in the creditors enforcing the decree if the substituted bond is not paid.

(*d*) Creditors obtain bonds in satisfaction of decrees and the enforce the latter.

* Printed on page 117 of the Selections.

A case in Bombay similar to the one mentioned in Ratnagiri, in which a creditor made an attempt to execute both a decree and a bond given in execution thereof, forms the subject of an elaborate judgment reported in Indian Law Reports, XI Bombay, page 6.

(g) Rayats tender false receipts in evidence.

(g) This is everywhere rare.

(h) Rayats make fictitious transfers of property in order to defraud their creditors.

(h) A native statement is made by Mr. Woodburn to the effect that the Deccan rayats now make fewer fraudulent transfers, because they have less need of them. This mode of cheating is in fact in various forms painfully common, far more so than attempts at fraud on the part of creditors.

The general result must be to dispel some prejudices concerning native suitors. There is indeed probably less improbity in the Bombay Courts than in the County Courts of England.

Page 53.

33. Mr. Woodburn then recites the opinions of the Subordinate Judges regarding limitation periods and imprisonment in execution.

The shortening of the period of limitation from 12 or 6 to 3 pears had probably some effect, as the indolence of creditors or their reliance on the promises of debtors, prevented their pressing for renewals or going into Court until limitation was about to operate under the older law. But the smaller money-lenders traded on borrowed capital to a considerable extent. Their accounts with their creditors, the larger capitalists, were made up annually at (generally about) 8 or 9 per cent. This necessarily imposed on them payment of compound interest on balances at that rate, and if they lent without a stipulation for annual rests, they had to charge a higher rate of interest in proportion to the longer average duration of the loans. Thus the longer period of limitation tended by a mechanical operation to enhance the rate of interest to borrowers. At present the double term of limitation given by section 72 of the Deccau Agriculturists Relief Act has little or no operation. Money-lenders do not allow personal obligations to run for twelve or even six years except under peculiar circumstances.

With the shortened credit allowed by sawkars there ought to have been a diminution of the rate of interest; but the greater hazard attending loans, as pointed out at the end of paragraph 23, and the lessening of competition by many of the smaller sawkars having been driven out of the business, have operated in the opposite direction.

Imprisonment in execution has now been generally abolished, so that the Deccan rayat no longer in this respect enjoys a privileged position. It was a mode of coercion but little resorted to, and its abolition will tend to raise the terms of credit to the poorer classes.

Pages 53 to 55.

33. Mr. Woodburn in paragraph* 24 treats of the tendency towards the concentration of land in the hands of capitalists. In a table on pages 53 and 54 he gives district by district, for various periods, the numbers of occupancies (i) not exceeding 5 acres; (ii) from 5 to 100 acres; (iii) over 100 acres. On pages 54 and 55 he states the percentage increases or decreases in each class. As the chief movements must have been within the class of holdings between 5 and 100 acres, these tables are of little practical use. The diminution in the Deccan districts in the average proportion of large holdings would in some cases be accounted for by the division of family estates. The increase elsewhere would be accounted for by the taking up of new and comparatively unreclaimed lands which are measured, registered, and assessed by Government in larger parcels. This must apparently have occurred in Khandesh, where the number of holdings over 100 acres increased from 55 to 75 between 1874 and 1884. Since then the number has decreased to 66.

It seems that in very recent years large holdings have been diminishing in number, except where the neighbourhood of Bombay or the opening of a railway produced an influx of capitalists. In all places within easy reach of Bombay capital is perpetually seeking investment in land. The decrease in the small holdings in Khandesh and Thana represents the growth of estates dependent on this capital. In Nasik and Bijapur the railways established have probably increased residential lots as evidenced by an increase in the number of small holdings—a result which may be observed on a smaller scale in Sholapur also.

* Printed on page 59 of the Selections.

It must be observed, however, that as the Land Revenue authorities will not usually split up a single occupancy, the number of small holdings may really increase, while the land registers present no sign of it. This is the case at such places as Bandra.

In two of the districts, Nasik and Bijapur, there has been an increase in the proportionate number of small holdings: in two, Khandesh and Thana, there has been a decrease. Thana cannot fairly be compared with a Deccan district. In Khandesh there has been a great and continuous extension of land taken up for cultivation. This does not appear to have been taken up to any appreciable extent in great estates. There must therefore have been a considerable agglomeration of small farms approaching 5 acres in extent into larger areas approaching 100 acres in extent. The great development of the wheat trade has probably made it more profitable to cultivate in parcels averaging 50 acres than in parcels averaging 25 acres. Where the holding has followed this impulse or influenee, there must have been a considerable diminution in the number of holdings within the class attended with economic advantage.

Page 57.

34. The case of the Warlis, an aboriginal tribe in the Thana district, as described on page* 57, brings before Government in its plainest form the problem of whether the classes least fitted for the conditions of modern life are to be artificially preserved, and if they are, how and to what extent and subject to what conditions. If interference with economic laws and the survival of the fittest is warranted at all, it is warranted in the case of the Warlis. They are far more helpless even than the Marathas of the Deccan. But to keep them on their lands and to prevent their getting into debt is absolutely to deprive them of freedom. Many must thus be preserved as cultivators who are unfit for the occupation, and secret bargains may keep them in perpetual slavery. Under a rigidly protective rule the more enterprising spirits will chafe and even migrate. Those who remain will degenerate. Complete preservation of an inferior race thus seems impossible, and if possible, undesirable. But against the sudden impact of wholly new conditions these people and others approaching them in character and capacity, may be at least partially guarded by regarding their estates as entailed for the benefit of their families, subject only to an "extent" or placing at the disposal of creditors for a limited period of so much as is not necessary for subsistence of the family. This should be determined by the Collector. The Hindu system of interdiction should be resuscitated and energized after the fashion common in Continental Europe.

Page 58.

35. On page† 58 Mr. Woodburn says:

"In mentioning the irritation produced by the transfer of land, Mr. Stewart, from the tenor of his remarks, would appear to be referring to forced sales, and I gather that he would not advocate a policy of non-interference where it can be shown that the transfer of land is being effected by the facilities afforded by the law to capitalists for getting the better of ignorant peasants."

This is not very intelligible. What are forced sales? Are they sales under decrees? If land is to be kept in the hands of the peasant occupants, voluntary alienation must be checked. By pressure, as in seizing crops and so on, a creditor can compel a voluntary sale so long as it is allowed.

Progress in all communities implies activity. There must consequently be continued changes of conditions going on in every society, except those that "stagnate in the weeds of sloth." Some men with higher or more suitable capacities must be for ever getting an advantage over those less well constituted. The more important positions thus taken up by the better qualified men are an advantage to the community as a whole. The transfer of fixed property is an inevitable concomitant of this social and economic movement, as the growth of individual property was at one time a part of it. In all ordinary cases a successful attempt to prevent it would result only in economic paralysis. These considerations apply to nearly all large transactions.

But there are cases mostly of small amount in which on account of the creditor's holding a dominating position as a mortgagee or a decree-holder or from some other cause and the borrowers of debtors being in a completely dependent position the ordinary rules which assume a proximate equality may become a source of virtual injustice. English legislation has in some

* Printed on page 62 of the Selections.

† " " 63 " "

cases recognized such a situation. Equity has recognized it still further. What is wanted is a distinct enlargement of equitable jurisdiction in our ordinary Courts, together with interdiction and limited entail.

36. The Deccan Agriculturists' Relief Act has transferred the burden of proving the true amount of the debt, as distinguished from the amount entered in the bond, from the debtor to the lender (page 59). It is clear that the burden ought not generally to be thus transferred : otherwise what is the object of the bond? A bond or acknowledgment is meant specially to settle a controversy or account or to prevent futile disputes, and this very effect is now secured to it by artifices in the process of registration and of conciliation by which the law is made to defeat the legislature. But the process is attended with trouble and risk. These have to be paid for, and thus the debtor is compelled by the law made for his benefit, to pay more for the accommodation by which sometimes he lives. In the competition with those who obtain credit on easier terms than can be offered under the Act, the frugal and provident rayat cannot afford to take capital on unequal terms, and agricultural development is so far (and perhaps materially) impeded. It is the poor and reckless who are willing to pay anything demanded. They thus lose all their good lands and by and bye become agriculturists with wretchedly poor fields and large debts. It is only in special cases that the natural incidence of the burden of proof should be shifted. A man who is fit to be a free proprietor is fit to be a free agent in transactions. If he is imbecile, fraud and cunning will assail him on his unprotected side as certainly as water finds out a hole in a ship.

Page 59.

The Act is also said to remove to a large extent the temptation to borrow and lend (page 69). Easy credit is generally thought to be the soul of business. Borrowing may sometimes be foolish, but it must not be forgotten that it is frequently wise or indispensable. A cart-owner who loses one bullock acts prudently in borrowing to replace it rather than to sell the other and starve. Loans on personal security with resort to the land are almost as cheap as mortgages: they are much easier to manage and are thus far more suitable to the needs of ordinary business. The thrifty and enterprising profit by the ordinary system, the sluggish and improvident are certainly saved for a time by the operation of the Act. But only for a time. They borrow still on extravagant terms, become more involved and are eventually driven to mortgage or sale, either express or under the form of a lease.

37. With regard to the table on page 60, showing the cost of the Subordinate Courts, it is to be observed that in 1874 the subordinate judiciary was reconstituted. It was considered that the lowest salary appropriate for a Subordinate Judge was R200 a month. When the Deccan Agriculturists' Relief Act was passed twelve (afterwards reduced to nine) additional Subordinate Judges were employed at R150 a month, and all who have since entered the Subordinate Judicial Service have had to do so through this gate. R200 having been deliberately settled as the minimum rate at which an efficient Subordinate Judge could be obtained, the arrangement made necessary by the Deccan Agriculturists' Relief Act must have had a continually deteriorating effect on the judiciary body during the last nine years.

Page 60.

Bijapur is markedly distinguished, no doubt, from Poona and Satara in that in the former litigation is much less extensive. But the paucity of cases there shows that the ordinary law does not necessarily breed excessive litigation.

It should have been perceived that the circumstances of Ratnagiri and Thana are in almost all respects so different from those of Poona or Sholapur as to make the comparisons instituted between them almost useless.

The sum of R1,42,740 stated at the foot of page 61 as the net extra cost in the four districts of the Deccan Agriculturists' Relief Act is far from representing the whole cost to Government. There must be added the losses on license-tax and stamps dealt with in paragraph 27 (see pages 67-68.)

Page 61.

In estimating the saving in amalgamating Courts and reducing the number of Subordinate Judges (page 62), the cost of pension and compensation for abolished appointments must be taken account of. The High Court has reported that three Subordinate Judges can be dispensed within the four districts, but that their services are required elsewhere.

Page 62.

* Printed on page 65 of the Selections.

The Special Judge recommends that the exemptions of all Court-fees and stamp duties in redemption and account suits should be discontinued (page 62). There is no valid reason for any difference of fees. The exemptions were meant to establish the operation of the Act. The freedom from fees and stamp duties has led to the institution of a considerable number of speculative suits which would have been much more numerous but for the far stricter view taken by the High Court than by the Subordinate Judges of the proof required to establish a mortgage of which no documentary evidence was adduced. The effect and the purpose of the exemption was to give an artificial and unwholesome stimulus to suits of these classes and thence a false semblance of comparative importance and efficiency to the Act. If redemption suits could have been carried on gratis they would have been almost as numerous and as speculative under the ordinary law.

To raise the village registration fee on every petty transaction to annas 11-11 (see page* 62) would undoubtedly be oppressive. Even the present fee is felt as oppressive and the burdensome attendance and ceremonies as still more so. This appears later on (page 63). Mr. Woodburn rightly condemns the system. The registration of petty contracts and transactions not bearing on immoveable property is on every ground inexpedient. It is cumbrous and costly so as to embarrass the multitudinous transactions of daily life. Being necessary it strikes every memorandum unregistered with virtual nullity, and where a bond or memorandum has been executed and not registered, other evidence is excluded. Hence these precise proofs are dispensed with in a multitude of cases. Accounts and promises are relied on with the consequences of fraud and litigation that would otherwise be avoided. How completely registration is in many cases turned into a means of fraud appears clearly from the report of the Special Judge quoted by Mr. Woodburn on page 62. The ignorant borrower needs as much protection at the Registrar's office as he does in the Court, and the result of excessive protection in the one place and the other is to foster evasions in new shapes and to enhance the cost of credit.

It is quite clear that extra Courts would not be necessary if the conciliation system were abolished.

The Subordinate Courts, as they exist now, would certainly be sufficient to deal with all the work that the abolition of conciliators would throw upon them. The agreements before conciliators would be replaced by admissions and compromises filed in the Courts. This is demonstrated on page 64. It appears that an agreement is effected by the conciliators in only about 1 case in 6. A similar process has in France and the Continental countries degenerated, as some text-writers say, into "a form or a farce." The creditor who intends to put pressure on his debtors can have him dragged (under the Deccan Agriculturists' Relief Act) from his fields before the Conciliator and the Subordinate Judge just at the time when his presence is most required in his fields. Six defendants are thus vexed for one who yields without a suit. Of those who do yield a certain proportion are men who being helpless are forced by the creditor to make agreements which are then converted into decrees against which there is no appeal and no redress.

Page 64.

The Village Munsifs, it appears, entirely fail to answer the purpose for which they were instituted. The class who resort to them labour under no special disadvantage, and their work could be better done by the ordinary Courts.

The process of examination under sections 12 and 13 of the Deccan Agriculturists' Relief Act is far more laborious than the ordinary investigation of a case. But it takes place only in one out of five cases. On the whole, therefore, it does not add very much to the work of the Courts. Where it does take place, it often results in mere speculation on account of the want of data or in unlimited perjury. This is shown by the Judges' reports. (See Mr. Crowe's remarks, page 151.)

In the table on page 65 Mr. Woodburn works out the cost of 24 instead of 36 Courts in the four districts at the rate of the cost of Courts in Nasik and Khandesh. The additional cost according to this calculation is about R41,000, mainly in salaries. It must be borne in mind, however, that the number of suits in Khandesh or even in Nasik is very much greater than in the four districts. Expenses for process, etc., are proportionate to the amount of work, as Mr. Woodburn himself has pointed out above with reference to Bijapur.

Page 65.

* Printed on page 67 of the Selections.
† " " 69 " "

Mr. Woodburn's being, as he owns, entirely ignorant of the working of the Courts, must deprive his opinion on many points besides that regarding the necessity for a special revising agency (see page 65) of its value. The Deccan Agriculturists' Relief Act is essentially a special law of procedure, and it is only by an intelligent comparison of it with the ordinary system that its merit and defects can be gauged. As to the special agency employed, all the District Judges are of opinion that it is needless, and that one extra Subordinate Judge in each district to aid in revision work would suffice for that, and at the same time give the required aid in disposing of appeals. (See what Mr. Crowe says on page 153, Mr. Walker on pages 158 and 176, and Mr. Wagh on page 172.)

It seems doubtful whether the conciliation system is not rather mischievous than useful. In 1881 the Special Judge wrote—

The chief objection I have to the system is that it tends to encourage collusive agreements, and to nullify to a great exent one of the principal objects of the Act, namely, the reliet from debt of the indebted agriculturists by the facilities which it affords for evading that searching enquiry into the merits of each transaction which to my mind is the most important means of relief afforded by the Act......Large numbers of conciliation agreements are little better than mere renewal bonds, supplanting old deeds ...... When a loan is being negotiated, in order to avoid the trouble and expense of writing out a bond on stamped paper and of having it formally registered by a village registrar, the parties go before a conciliator. The creditor makes a demand The debtor admits the debt and promises to pay in certain sums and at certain times as may have been fixed upon. The Conciliator takes down the agreement in writing. It is signed by the parties. It is then sent to the Court and takes effect as a decree. The dispute and the pleadings before the Conciliator are a kind of legal fiction to give him jurisdiction. The lender thus gets what is equivalent, not only to a registered bond, but to a registered bond with a decree cut and dried, already tacked thereto; and this he gets without stamped paper, registration or litigation by the mere collusion or consent of the borrower. In this way the stamped and registration laws are easily evaded. I do not think that a state of things like this was ever contemplated. It does not, however, appear illegal. (Pages 65-66.)

What was said is as true now as then. But if the conciliation system is to be retained still the required supervision can be perfectly well done by a Subordinate Judge aiding the District Judges. There would be a distinct advantage in bringing the Subordinate Court of a district for all purposes under the supervision of one and the same superior.

In more recent reports the Special Judge says only "that the system *(conciliation)* has its weak points" and "has a tendency to become lax." This is merely a part of the genrally apologetic tone of the reports, as the Special Judge has identified himself with the system which he supports very ably. The openings to abuse and fraud remain what they were and the persons interested have not grown less ingenious in using them.

A revision in a case taken up to be looked at by the Special Judge, is a far less complete task than an appeal. The records of cases called for by the High Court show that the work is done in a much looser and less satisfactory manner. Under the revision system any peculiar idiosyncrasy of the revising Judge who works unaided, may produce a long series of errors which remain uncorrected for years together. The opinion of Mr. Woodburn on page 66 that there should be no special agency unless arranged for without extra expense is well grounded. But it is a strong argument against an introduction of the Act into new districts and hardly less a condemnation of it where it is in operation. Take away the Special Judge, Village Munsifs, Conciliators and Village Registrars, and some of the most characteristic features of the Act are gone.

On page* 66 Mr. Woodburn shows that before the introduction of the Act the license-tax receipts in the four districts were 48 9 per cent. of the total receipts in the nine districts. Since the introduction of the Act, they have fallen to 46·3 per cent. R31,152 would be necessary to make the proportion 48·9 per cent., and this may be estimated as the loss incurred by the introduction of the Act on this account, and not half that sum only as stated by Mr. Woodburn. Another way of arriving at the loss is as follows: in the five districts the fall was from R7,62,000 to R3,41,000. If the fall had been at the same rate only in the four districts, the collection in the later period would be R3,27,190, instead of R2,94,980, a loss of R32,210 due to the Relief Act.

Page 66.

The result of the Deccan Agriculturists' Relief Act has been to reduce the incomes of the middle classes. It implies a general decline of commercial activity, and by this a large proportion of the poorer classes, whether agriculturists or not, must have suffered.

Page 67.

* Printed on page 71 of the Selections.

The Income-Tax is paid on such a different footing and by such different persons that no profitable comparison between the collections in the four and the five districts is possible. At Poona there is a concentration of persons with large and moderate incomes which makes its case quite peculiar.

Finally, on page 68 Mr. Woodburn estimates the annual loss to Government from the introduction of the Act at R3,11,000. To this must be added the extra charges shown on page 61 to amount to R1,42,740 annually. This makes a total loss of R4,53,740, and represents the interest on 100 lakhs with something considerable to spare for a sinking fund Could not a more effectual relief have been given in 1879 to the famine stricken districts by a judicious investment of 100 lakhs than by setting up the costly system of the Deccan Agriculturists' Relief Act?

Page 68.

As to the remarks at the close of paragraph 27 on page 68, that increased prosperity may have balanced these losses, there is nothing to indicate increased prosperity but rather the reverse. The deficit on income-tax in spite of Poona shows a decline in prosperity. So, probably, does the falling off in stamps. There has been no material increase in land revenue except through revised assessments. In excise the improvement has not been greater in the Deccan than elsewhere.

If Sholapur be compared with Bijapur or Ahmednagar with Khandesh in the progress either of land revenue or excise or stamps, the result shows relative decline under the régime of the Deccan Agriculturists' Relief Act.

38. Mr. Woodburn next (in paragraph 28 *et seq.*) deals generally wth the indebtedness of the rayats. The only certain item of information he possesses is the total amount of debt in each district, of all families, with the exception of landholders and income-tax payers. He proceeds to distribute the debts on the assumption that the average number of inhabitants in certain villages selected for experiment is the same as for all the villages. But on such a purely conjectural assumption no reason ing can safely be based. Why should the average population of a few villages selected for convenience be the same as for all the villages of a district, and similarly as to the proportion of incom-tax payers?

A debt of R70 a head for the whole population of Thana, as thus estimated by Mr. Woodburn, due by the classes alone who are not landholders or income-tax payers, is inconceivable.

It is almost impossible to get really authoritative information as to these matters (see page 74). It appears from the table on page 69, that Thana and Bijapur, which are under the ordinary law, present a larger proportion of occupants free from debt than any of the four districts under the Deccan Agriculturists' Relief Act. Khandesh, however, shows only about half as high a percentage as Ahmednagar. Yet can it be said that generally Khandesh is less prosperous and progressive than Ahmednagar? Ratnagiri, it seems, which has 35 per cent. of its occupants wholly free from debt, has 43 per cent. in debt more than 20 times the annual assessment. This seems most unlikely, unless the assessment is abnormally low.

Page 69.

The comparison of debts with the assessment is fallacious. The lower the assessment and the more easy the occupant's circumstances, the worse off he would appear according to this table, as his normal debt would bear a higher proportion to the assessment of his fields. No account seems to be taken of occupants getting a part of their income from other occupations and borrowing to carry on transactions.

If the table be compared with the one on page 39 it will be seen that 32 per cent. of the occupants in the Poona district (accepting the method of computation) and 23 per cent. of those of Satara are now in a much worse position, comparing their debts with their holdings, than were the people of the 12 villages selected by the Deccan Riots Commission as typically wretched in 1875. Ahmednagar appears to be nearly in the same position as those villages. Sholapur is better off as to debt, but it would be easy to select 12 villages presenting the same average proportion of debts to assessment as that of the 12 villages inquired into in 1875. The whole table, however, is fallacious, being based on conjectural data. According to it the lower a man's assessment, the worse his circumstances appear, instead of the reverse.

Page 70.

As to the table at top of page 70, showing the average rate of assessment per acre, it is to be remembered that the mere rate of assessment by itself is no index to the occupant's circumstances. These so far as affected by assessment depend on the burden of it compared with the productiveness of the land.

Mr. Woodburn then assesses the value of holdings at 15 times the assessment. But this is most fallacious. Some holdings have a market value of 50 times the assessment (see page 77). Others have no market value at all. Nor is an average, if it could be found, of any use for the purpose in hand. If holdings representing half the assessment of a village are worth 30 times their assessment, the others may be worth nothing and their holders sunk in destitution, while the average is a sale value of 15 times the assessment. Mr. Woodburn has a glimmering of this, but he does not work it out. That the average assets of a group of rayats including those who owe nothing are equal to twice or thrice their average debts is nothing to the purpose for the cases of those who fall below the point of equality between assets and obligations. What appears on pages 23 and 24 is that the smaller holders in the four districts are selling their lands, at a rate increasing on an average 6 or 7 per cent. per annum.

Page 71.

The last table on page 70, which shows debts estimated in multiples of the assessment of lands held by indebted rayats, illustrates the above. How could mortgages *average* 35 times the assessment in Thana unless the sale-value were in many cases more than 50 times the assessment? In a district of poor soil like Sholapur or Ahmednagar there is a large proportion of lands with a sale-value of from 0 to 5 times the annual assessment. That the mortgages are thus low in proportion to assessment does not indicate prosperity, but perhaps the reverse. If we compare the rates of incumbrance and total value as shown in the table at the top of page 71 with those of most countries in Continental Europe, we find the results favourable to India. In France the incumbrances approach 20 per cent.; in Italy they exceed it; in Prussia, Saxony and Zurich they are nearly 50 per cent. In England they are computed at 25 per cent. of total value.

It is almost an arithmetical certainty, or an economic necessity that mortgages should rest on the better lands in a greater proportion. The lands not mortgaged necessarily include a large number of fields which would yield no rent or only a nominal rent over the land-tax and, therefore, are valueless as a security for a mortgage. Again, a rayat in difficulties parts first generally with his best land, as being the most saleable. He sinks back by degrees on that which just gives him a livelihood or return for hard labour, but no more.

The second table on page 71, which exhibits district by district the ratio of mortgage debt, to debt not so secured, shows how very much the economic condition of the people depends on circumstances wholly independent of legislation, and at first sight one would be inclined to say very confidently that the very small proportion of unsecured debt in Poona as compared with Nasik, and in Sholapur as compared with Bijapur, indicated a great and embarrassing contraction of credit in the Deccan districts. The last table on page 71 which shows the interest due, for every R100 of assessment, may at first sight seem very unfavourable as regards districts like Thana and Ratnagiri. But when we see from page 70 that the lands there must on an average be worth something like 50 times the assessment, that implies a capacity to bear their burdens such that an amount of these burdens equalling annually 3½ times the assessment may be less oppressive in those districts than one of twice the assessment in Poona, where the average selling value of land may be from 25 to 30 times the assessment.

In Khandesh and Nasik the interest payable is very large as compared with Poona, where the land is rather more valuable as one may judge from the mortgages. But the too narrow basis of the whole set of tables prevents any safe inference from being drawn. The proportion of unsecured debt being high indicates, too, a high rate of interest.

Page 72.

The table on the top of page 72 exhibiting mortgage debts in multiples of assessment of land mortgaged shows that mortgageable land has a mortgage value, because it has a sale-value, of nearly three times as much in some districts as others. It does not show how much of this arises from capital sunk in the land.

The assumption in the second table on page 72, giving in detail the circumstances of a few indebted rayats, of 15 times the assessment as the value of the land is purely arbitrary. The land in any given case may be worth 100 times the assessment or worth zero. The selection of agriculturists owing more than 100 times their assessment gives no fair sample of the general proportion. But unless the mortgages are mainly collateral or partial, it may sometimes be inferred that the arbitrary valuation of the lands at 15 times the assesment is very far from the truth.

Junnar, where these selected rayats live, being in Poona the table shows that the Deccan Agriculturists' Relief Act has not prevented or removed a crushing burden of debt there If this be compared with the condition of Bijapur not under the Deccan Agriculturist Relief Act the difference is striking.

Mortgages are more frequent in Poona and Satara, because there is more land yielding a good profit rent (see table at the top of page 72).

Nándgaon (see page 73) is, I think, a place where there is a Railway station, which has made it a centre of trade. As there is much more commercial activity than usual, so there are more unsecured debts.

Page 73.

39. In paragraph 30 Mr. Woodburn treats of the share of land held by sawkars. The purchase of land by sawkars and capitalists generally by no means implies the retention of it by them. Many persons from Bombay have purchased lands in the Poona District and endeavoured to work them but unsuccessfully owing to dishonesty and industrial incapacity on the part of tenants and labourers. Such men then sell again or let on lease. The sawkars, as a rule, have no taste for agriculture and prefer turning over their capital when they can sell their land at a profit. This is specially so when they become owners of scattered parcels of land.

Page 74.

The great present prosperity of Bijapur and in a minor degree of Sholapur is due, no doubt in a great measure, to the devastating famine of 1876-77. It affords an illustration of a familiar proposition in economics as to the rapid recovery after wars, etc.

The holding of land by capitalists may be beneficial (see page 34) or the reverse Under a system of free transfer land is almost certain to find its way to the hands which can use it most profitably, and a rayat paying rent may hold on much easier terms than if he held the same land subject to mortgage, as large permanent investors are content with a small annual return on the capital sunk in purchase.

It seems from the lower table on page 75 that about 20 per cent. of the land is in the possession of sawkars. This is not an unreasonable or alarming proportion. But the large proportion of temporary possessions by sawkars must generally have a bad economic result. Still worse is the consequence of the rayat remaining the registered owner, while all the beneficial interest is absorbed by a creditor. This case is very frequent in the Deccan.

Page 75.

The decrease in the area of land held by saukars in Ahmednagar concurrently with increase in the assessment (page 76) illustrates what I have said above. The land formerly held would not have been thrown up, but that it failed to yield a livelihood over and above the assessment. It could, therefore, yield no rent and its sale-value would be 'nil'.

Page 76.

It must be borne in mind that landholding is seldom, if ever, the chief business of a sawkar. The conditions under which the sawkars were placed as to their ordinary business by the Deccan Agriculturists' Relief Act has led a considerable number of sawkars to withdraw from their business or to engage in other occupations. This would primarily and necessarily be attended with a diminution of lands held by them, as when going away they would not retain small and scattered holdings.

The table at the foot of page 76 shows the percentage increase or decrease in occupied land from 1882-83 to 1886-87. In Khandesh a decrease of 3·6 per cent. is shown, but as Mr. Woodburn thinks, the truth of this is doubtful though the district is even now only partially occupied. Bijapur, for which an increase of 6 per cent. is shown, was devastated by the famine of 1876-77. Nasik and Thana include considerable vacant tracts.

* Printed on page 78 of the Selections.

It seems probable that in the four districts in some cases rayats have been forced to take up waste to get a livelihood, owing to the increased difficulty of obtaining money to push more intensive cultivation on lands already occupied. As population increases, it readily flows over the waste. It is hard to suppose a diminution of 9 per cent. in Thana. The apparent result must be due to different modes of defining the cultivated area, or to forest demarcation having taken up land formerly reckoned as occupied.

The "keen demand for land" in Ahmednagar, stated to exist by Mr. Woodburn, seems at first sight inconsistent with a decrease in the area held in 1874-75 as stated at page 76. But if the assessment was raised too high on lands already occupied, the effect would be to make the occupants concentrate themselves more on the better part of their holdings and give up the rest. Some rayats would desire to get new lands in proportion as they found the old ones untenable owing to over-assessment or even to a comparatively high assessment.

Page 77,

Not much can be deduced from the table in the middle of page 77, which gives the sale prices at a few auction sales of waste lands in Khandesh and Ahmednagar, but so far as it goes it shows land selling for about three times as much in Khandesh as in Ahmednagar. The basis is too narrow for any general induction.

If we are to draw deductions from the table at the foot of page 77, which compares the sale mortgage and lease values of land of the periods 1860 to 1875 and 1878 to 1884, deduced from registration records, it appears that the sale value of land in Poona has declined about 40 per cent. since 1875, at the same time that its leasing value has increased about 8 per cent.

In Satara while the mortgage and leasing value has declined the sale value has increased.

In Ahmednagar the mortgage value has distinctly fallen while the leasing value has increased.

In Sholapur there has been a decline in sale value of about 25 per cent., in mortgage value of about 40 per cent., in leasing value of only about 18 per cent. In Khandesh, on the other hand, there has been an increase of about 27 per cent. in selling value, of about 25 per cent. in mortgage value, and about 50 per cent. in leasing values. But further it appears from Appendix A that the assessment in Khandesh is about twice as high as the average in Ahmednagar, Poona and Sholapur. The selling and other rates in the table ought of course to be about doubled for purposes of comparison with the districts under the Deccan Agriculturists' Relief Act. The table is inconclusive, not only for the reasons stated by the Inspector General of Registration that the sale and mortgage values deduced are less likely to be accurate than the ease value, but for others. The assessment or the land tax is fixed by a very arbitrary and mechanical process resulting in a rate which as compared with the real value of a field may be much too high or too low. In Ahmednagar in the last revision it must have been in many cases fixed too high. Now in the earlier period after the survey had been introduced, the most valuable fields relatively to the survey rates, were those which would be sold on account of the very large sums that could be realized. In more recent years such prizes have not been available and prices have gone down. Moreover, the assessment has in many instances gone up. A common way of making a sale is by surrender and acceptance entered in the land revenue books but not registered. The transactions carried through in this way, if embraced in the computation, would probably lower the prices very considerably.

Leases are often only mortgages in disguise. But if we take the lease rates per annum shown by the table, they go to indicate that the selling rates are not excessive, though of course the leases and the sales are not generally of the same lands. Where R2·9 per annum could be had for land plus the assessment, R52·2 would not be an excessive price.

The table does not say whether the lease rates are calculated as including or excluding the assessment. Both forms are common. In recent years the lessor has more generally kept payment of assessment in his own hands and let the land at a full rate. This will account perhaps, for the much larger lease, in proportion to sale rate in Poona in the latter period. How the case may be elsewhere there is no information.

In Khandesh and Bijapur prices and rents are low on account of the abundance of unoccupied land.

In Thana it would seem land has been recently mortgaged at its full sale value. Results like this must be received with great reserve.

* Printed on page 81 of the Selections.

Caution is suggested, too, by the fact that in Satara sale values seem to have gone up, while mortgage values and rents have gone down. In Bijapur it would appear that land is actually worth more to mortgage than to sell. This of course cannot be so. It only shows what a qualified reliance is to be placed on the table.

It must be remembered that formal leases as well as formal sale-deeds bear far more on the valuable than on the comparatively poor lands. Thousands of rayats let land for a year or two without any registered documents, and if these are taken into the computation the rent would seem much lower in proportion to the assessment all round.

Page 78.

On page 78 a table is given showing the Court auction-sale prices of lands in 1886 and 1887. It is obvious that so long as there is waste land available gratis, no one will give a high price for land sold as forfeited. But as far as can be judged by comparing the prices for 1887 here given, with those given in the registration statistics on page 77, the price is falling off in Poona from 30 to 27, in Satara from 28 to 17 times the assessment. In Ahmednagar and Sholapur, on the other hand, it seems to be rising from 15 to 17 and from 12 to 22 times the assessment. In all the four Deccan districts the 31 lakhs per annum which, as shown on page 46 of these observations, would under the ordinary system have come to Government, but have remained with the people, have been available for investment. This would lead to higher prices.

Page 79.

40. There was no need for Mr. Woodburn to cite Mr. Jevons as he does on page 79 in order to prove that legislation must provide if possible for the actual needs of society and go as far as those needs require. There is, however, as this report shows, no little difficulty in the interpretation of experience. Even in the economic sphere alone the precise state of facts is hard to discover and the causes which have led to certain results are generally complicated in such a way as to defy exact analysis. Laws in India are changed on very slight indications that an improvement is possible. The only question of the kind that of late years has not been viewed quite calmly and in a scientific spirit is that of the Deccan Agriculturists' Relief Act itself. It was a leap in the dark in a direction not only diverging from received principles, but in some respects directly opposed to them. The final landing-floor may not yet have been reached. Some consequences are realized soon; others take time and the presence of particular circumstances for their development. The relatively moneyed middle class have diminished greatly as the License Tax returns show. The terms of credit are harder. The growth of capital and free transfer of property are impeded. On the other hand, improvident borrowing is somewhat checked. But the Judges by whom the Act is administered concur in saying that it has spread perjury and dishonesty amongst the people to an appalling extent, and the consequence of this moral debasement must be eventually pernicious.

The transition from complete dependence to complete independence at the survey was too sudden for the moral strength of many of the rayats. Under the old system a large class had grown up who could till the land and live on a low platform of existence with a certain degree of comfort, but who were unfit for the more free life into which they were ushered, on account of its larger responsibilities. Every great change in the economic conditions of existence is a cause of suffering to some, through the very causes which make it generally beneficial. Not only in India but in many countries of Europe the so-called enfranchisement of the land has been followed by an accumulation of agricultural debt which tells with crushing effect on the peasantry. As the weaker, however, go to the wall, the stronger for economic purposes come to the front. The land gets into more able hands and production increases. The questions everywhere are:

Can this economic development be prevented?

How?

Is the end worth the means?

The answer to each of these questions probably almost everywhere is one of degree, and it can hardly be furnished by the experience of less than two generations.

In Western Khandesh the Bhils present the problem of protection in a more accentuated form than do the Deccan rayats; yet the Collector Mr. Loch is driven to the conclusion that it is impossible by means of the law to help people who are utterly unable to help themselves, and that the introduction of a measure resembling the Deccan Agriculturists' Relief Act would probably interrupt the present fairly cordial relations of lender and borrower, and stop the present perfectly legitimate system of loans repaid by sale of crops (page 124),

* Printed on page 82 of the Selections.

In Nasik, on the other hand, Mr. Davidson on examining the state of four village found the debts so overwhelming that he considers the people, though of the ordinary classes, need a special relief such as might be afforded by the Deccan Agricu lturists' Relief Act.

If, as Mr. Woodburn says on page 80, the extent of credit is measured by the power of informing payment, then under the Deccan Agriculturists' Relief Act, it is plain that the absolute immunity enjoyed by an agriculturist under that Act asto his person and his property under sections 21 and 22 (see page 82) must have made credit dear for good purposes and bad alike. The purchase of a plough, a cart or a pair of bullocks has been impeded as well ae a too costly wedding ceremony. There are many occasions on which a rayat sees that by an expenditure even of his own labour (as in terracing) for a few months he could add much to the productive capacity of his land. He has no money and is forced to go away and work as a hired labourer. He would be much more beneficially employed on his own fields, if he could borrow the money for his subsistence. Agriculturists very commonly employ labourers for their husbandry and often they are prevented from doing so by want of money. A little borrowed money spent on making a cottage dry and water-tight brings in, even economically more than its equivalent, in freedom from fever and dysentery. Borrowing cannot always be avoided by thrift. A thousand accidents—fire, flood, sickness, death—make it inevitable, and moreover borrowing on a sound system ought not to be avoided. Three-fourths of the industrial work of England is carried on upon borrowed capital which thus passes from inertsness to activity. We must give up this advantage, if we are to avoid the disadvantag- of a free system.

Page 80.

In the case of a famine there will always be a large number of people whom the sawkar will not and cannot support. These are labourers and rayats of no resources or character. But there is another considerable class to whom the aid of the sawkars would under the ordinary law be extended, and who for want of it must in an emergency be driven down into the lowest class. Such an event involves a serious loss, material and moral, to the aggregate community. The special skill of a banker consists in discerning those to whom assistance is indispensable and who at the same time can be assisted with reasonable safety.

41. The supposed results of the working of the *Deccan Agriculturists' Relief Act* are summarised on pages 80 and 81, as shown in the margin.

Pages 80-81.

1. The burden of debt has decreased and is decreasing.
2. The burden is now less than in districts outside the Act. The contrast between the extremes is remarkable.

(1) That the burden of debt has decreased is true. The cause of its decrease is explained by the Judges.

Mr. Crowe on page 141 alludes to the large decrease in the number of suits owing to the fear on the part of creditors of the anomalous provisions of the Deccan Agriculturists' Relief Act. Mr. Walker on page 157 speaks of the increased prosperity brought about by a succession of good seasons. The Subordinate Judge of Parner on page 168 alludes to the impossibility of compelling agriculturists to pay their debts. Mr. Tagore says:

"If by substantial justice be meant benefiting the rayat at the expense of the sawkars, then it must be admitted that substantial justice has been attained." (See page 179.)

But debt is not now decreasing.

From Appendix M to the Special Judge's Report for 1888 it appears that in 1888, a year of some pressure, the registered sales in the four districts rose in number from 12,100 in 1887 to 14,700 in 1888; in value from ₹14,03,000 to ₹17,29,000. The mortgages rose from 26,600, the number for 1887, to 33,000. The increase in value was slightly greater in proportion.

The simple money bonds rose from 23,500 to 29,100, the amount from ₹13,02,689 to ₹16,22,127. The burden of debt did decrease in 1886 and again in 1887, years of agricultural prosperity; but at the first pressure, though it was not of a serious kind, the debts began to increase rapidly. The percentages of increase are given thus by the Special Judge:—The increase in 1888 over the average of three previous years is in sales 26, in mortgages 31½, and in bonds 17 per cent. (para. 51 of the Report for 1888). He shows immediately afterwards that the increase in the number of small loans must be vastly greater than of large ones, which proves that now, as formerly, the poorest class break down first. Up to the year 1887 the burden of debt decreased because the previously lawful claims to the sawkars had been arbitrarily cut down and because they had been subjected to terms which make all

* Printed on pages 84 and 85 of the Selections.
† Not printed in the Selections.

lending very hazardous. So also the peasantry in France were enriched by the forfeiture of the property of the nobles at the Revolution. A total extinction of rayats' debts all over the Presidency would give still greater relief, and if all means of recovery were abolished, there would be very few debts. Such exceptional and revolutionary measures, even if successful in a single instance, cannot be converted into general principles of policy without results disastrous to society.

As to the other effects of the Act noted on page 81:

(3) The acquisition of land by sawkars has been checked. This is specially noticeable in the case of castes whose profession is moneylending.

(3) A large proportion of the sawkars have had to emigrate or give up the business. They as a rule do not desire to hold land permanently, but to sell it and turn their money over. The rayats, relieved from the responsibility for their debts by the abolition of effective sanction, have for the time been relieved of course of the necessity for selling.

(4) The land revenue is more easily collected than in other districts.

(4) If the fact is as stated, it is due to the same reasons and to good harvests.

(5) Outstanding balances are smaller; irrecoverable balances are less.

(5) But Government has lost largely in stamp revenue, etc.

(6) Excise revenue shows greater improvement.

(6) I give a statement showing, as far as statistics are available, the consumption of liquor since 1879-80, and the consumption per head of population on the average of the three years 1885-86 to 1887-88:

Statement showing the total consumption of country liquor in different Districts of the Presidency proper, in gallons, reduced to the uniform strength of 25° U. P.

Names of Districts.	1879-80.	1880-81.	1881-82.	1882-83.	1883-84.	1884-85.	1885-86.	1886-87.	1887-88.	Population.	Average annual consumption per head from 1885-86 to 1887-88.
	Gallons.	Gallons.	Gallons.	Gallons.	Gallons.	Gallons.	Gallons.	Gallons.	Gallons.		Gallons.
Thana	No statistics.		3,52,142	3,95,982	3,33,449	2,95,555	3,13,384	3,20,316	2,58,588	8,07,367	0·37
Nasik	Do.	do.	36,154	44,942	49,236	75,676	81,870	83,712	78,384	7,81,206	0·104
Khandesh	Statistics not available.					4,60,307	6,04,567	6,72,927	4,02,326	12,37,231	0·45
Ahmednagar	10,502	9,842	14,025	15,417	11,608	19 211	24,805	24,514	24 174	7,51,228	0·032
Poona	71,962	79,498	95,849	1,04,113	1,13,719	1,19,853	1,31,301	1,36,227	1,53,170	9,00,621	0·155
Sholapur	20,317	23,406	30,036	33,042	32,436	29,211	32,190	30,953	31,491	5,82,487	0·054
Satara	12,764	14,829	16,452	16,277	16,576	20,235	22,921	23,290	24,478	10,62,350	0·030
Bijapur	Statistics not available.					21,453	23,182	38,385	26,800	6,27,845	0·047
Ratnagiri	Do.	do.	80,092	1,13,056	No statistics.		70,344	80,894	89,072	9,97,090	0·080

It is true that the consumption has increased in the four districts at a greater rate than in the five, but it is impossible to say that this is not due to the prevention of illicit consumption One fact, however, stands out boldly. The actual consumption per head in the four Deccan districts is much smaller than that in the other five. The following is the order which they stand, in respect of consumption :

Page 81.

	Gallons.
Khandesh	0·45
Thana	0·37
Poona	0·155
Nasik	0·104
Ratnagiri	0·080
Sholapur	0·054
Bijapur	0·047
Ahmednagar	0·032
Satara	0·030

The state of things in the four districts where the ordinary law obtains, as summarised by Mr. Woodburn, is stated in the margin.

(1) The burden of debt is increasing as shown by the Registration Figures and the return of Civil Court sales :

(1) The burden of acknowledged debt must be greater where the means of recovery are available than where they are not.

Mr. Woodburn says of the sawkars of Khandesh that they

"deal with their creditors on accounts, so that their claims would be easily proved in Court as compared with those of Deccan sawkars dealing on bonds." (Page 81.)

And again he says :

" I think that the sections 22 and 29 should be modified so far as relates to past transactions by the omission of the words 'and which in the opinion of the Collector is not required for his support and the support of the members of his family dependent on him.' These words have made the section inoperative in the past." (Page 82.)

As to the actual burden of debt in Khandesh, the Collector, Mr. Loch, says :

"I have hardlyever heard the villagers complain of indebtedness, and if the Marwadi is not actually an object of affection, he is not disliked. I recollect that the state of things was very different in the Ahmednagar District when I was an assistant there between 1873 and 1876." (Page 122.),

And again,

" To sum up, I would say that we have in Khandesh an agricultural and labouring population who own a good deal of money and whose indebtedness seems to be gaining on them, but who are certainly at present solvent who are on good terms with their creditors, many of whom are of their own class who have not parted as a rule with the ownership of their holdings, and who are generally well dressed, well fed and fairly housed." (Page 123.)

Mr. Woodward, Collector of Nasik, though generally favourable to the Act, says :

" Hitherto the rayat has got along fairly enough with the assistances of a swakar, the effect of the Relief Act being of course to disrupt the relations between the two." (Page 125.)

(2) The burden is very heavy, greater than in any of the four Deccan Agriculturists' Relief districts, and in some cases the difference is enormous.

(2) The rayats have been able in the Deccan to get rid of just debts. In the other districts they are perhaps subject to unjust claims. Probably there are some instances of claims they cannot possibly satisfy.

(3) The acquisition of land by sawkars steadily progresses.

(3) It is inevitable under a system of free disposal that there should be a considerable agglomeration. This is most perceptible in Thana within easy reach of Bombay.

(4) The land revenue is less easily collected than in the four Deccan Agriculturists' Relief districts*

(4) I have discussed Mr. Woodburn's conclusions on pages 9 to 11 of these observations. The conclusions are based on a comparison of outstanding and irrecoverable balances, and compulsory proceedings for the collection of revenue in the several districts. As regards the last, it is to a considerable extent a matter of revenue management. And, as I have shown the slightly enhanced difficulty of collection in the five districts is due to the fact that in them the waste cultivable land being larger in area, cultivated land has a smaller sale-value and is not therefore so tenaciously held.

* Printed on page 132 of the Selecttons.

(5) Outstanding balances are greater; irrecoverable balances are larger.

5. I have partially discussed this above (4). It must be added that the money, rightly or wrongly put into the rayat's pocket under the Act, is of course available to pay Government revenue.

(6) Excise revenue shows less improvement.

6. I have discussed excise revenue on pages 55 to 57 of these observations. Licit consumptions of liquor has, as far as can be ascertained, increased more rapidly in the four districts, though it is not known whether the total consumption (licit *plus* illicit) has increased more. At any rate the consumption is now much larger in the five than in the four districts.

The introduction of the Relief Act into the Nasik district is advocated because the burden of agriculturists' debt is there very heavy. The condition of the peasantry of that district is obviously bad, and, if drastic measures can be justified anywhere, it is there. But it is worth while considering whether sufficient relief cannot be given to one class without absolutely ruining another.

Mr. Candy, District Judge of Poona, says :—

"The Act has tended to improve the material condition of the rayats, because it has freed some from a heavy load of debt. But it has ruined some small money-lenders (whether that is to be regretted or not is a different question), and it has generally weakened credit; it has also to a certain extent caused a degeneration of tone among the community. Many defendants seem to think that as a matter of course they must repudiate their debts. Each party, the creditor and debtor, is now too apt to take an extreme position: each tries to prove too much, and no doubt the relations between the two classes are embittered. It may be admitted that many rayats have become energetic and careful of their own interests, but their energy is often turned in a wrong direction; credit being lessened, the introduction and application of capital are impaired. Sawkars are generally averse to giving loans except on the security of land." (Page 139.)

At the same time the indebtedness is no doubt increasing and where the debts are improvidently increased serious consequences arise which require careful consideration.

In order to bring out results favourable to the Deccan districts, Mr. Woodburn excludes Bijapur, which is not under the Act. In that district "the rayats are in a much more favourable position than anywhere in the nine districts." Clearly then prosperity and comfort may be attained without any aid from the Deccan Agriculturists' Relief Act.

Mr. Harvey, in charge of the talukas of Bagalkot, Badami and Hundgund, says :—

"I am altogether opposed to the introduction of the Act in its entirety into the talukas in my charge* * . The very opposite '(of the state of things in the districts where the Act applies)' is the case in my talukas. In Hundgund and Bagalkot the condition of the rayats is excellent; and the percentage who are involved in debt is very small, and the amount of their indebtedness is not, I believe, very great. The condition of the Badami Taluka is not so good as that of the other two, but even there the sawkars do not press very heavily on the agricultural classes. As far as my observation has gone, and all the Mamlatdars are of the same opinion, the provisions of the Act regarding Conciliators, Village Munsiffs, and hearing of special suits under the Act are not required. I have seen something of the working of the Act in the Ahmednagar District, and the general results seemed to be that, while the rayats got freed from part of their debts, their credit was ruined, and the sawkars impoverished, without much advantage being gained in any way."

Rao Bahadur N. G. Deshpande, with experience of Ahmednagar, writes regarding the Indi, Sindgi and Bijapur Talukas :—

"In my opinion there is no necessity to introduce this Act or its modification in the part of this district in my charge. Indebtedness is not so great as it is in the parts of the Ahmednagar District, which were in my charge. * * Nor is it such as weighs very heavily on the rayat and necessitates special measures for relief."

Page 82.

42. Mr. Woodburn says that Chapter V relating to Village Munsifs, Chapter VI relating to Conciliation, VIII relating to Village Registration, Chapter IX relating to receipts and accounts, are not essential to the successful working of the Act, and he would not recommend that any of them be made anywhere applicable (page 82). As every one admits that Chapter IV (of Insolvency) is a dead letter, it is impossible to say that it ought to be preserved. Along with Chapter IV on Insolvency must naturally go section 19, which is practically an insolvency section. The Special Judges at paragraph 25 of his report for 1888 says :—

"Section 19, clauses 1 and 2, remained inoperative as in former years."

The management of rayats' lands by Collectors, which was declared to be the keystone of the Act, has proved a total failure. Section 22, therefore, should not be retained. The Special Judge says:

Section 22 continues to be more and more inoperative. There was only one Court, that of Kopargaon, in which four applications were made by the judgment-creditor under this section. In all the other Courts, no action was taken under this head. The reasons for this failure have been noted in previous reports, and I expect no improvement in this connection. (See paragraph 30 of the Report for 1888.)

* Printed on page 144 of the Selections.

As to section 21, prohibiting the arrest and imprisonment of agriculturists for debt, Mr. Woodburn virtually admits it is unnecessary, now that the Code of Civil Procedure has become so lenient to judgment-debtors.

With Chapter V would go section 23, which also has reference to Village Munsifs.

Section 3 (*a*), which brings account suits under the provisions of Chapter II of the Act, and sections 16 and 17, which also relate to suits for account, are virtually useless. In the whole region under the Act there were but 30 account suits in 1887 and 28 in 1888 (see paragraph 6 of the Special Judge's report for 1888). The Special Judge says:

"These suits are only brought because parties are not required to pay any stamp duty in respect of them. Most of them are converted into redemption suits after judgment, but before signing the decree. The total exemption allowed to such suits may now safely be withdrawn." (See paragraph 6 of the Report for 1888.)

Of section 9, providing for the summary disposal of suits not exceeding R10, he says:

"The summary procedure laid down in section 9 was, as usual, not followed in most of the Subordinate Judges' Courts. Only four Subordinate Judges (Baramati, Karad, Tasgaon and Sangamner) report that they followed the procedure in 15 cases. The summary procedure cannot be safely followed in contested suits, which are few, and there is no occasion to follow it in suits otherwise disposed of." (See paragraph 9 of the Report for 1888.)

As to Chapter VIII (on Village Registrars), that officer virtually admits that it does more harm than good. He says:

"Very few Subordinate Judges have expressed any opinion about the working of the registration system, and most of the Subordinate Judges have referred to their previous reports. The general sense seems to be that while the system prevents fraud in regard to the execution of documents, it is not equally useful, and in the opinion of many Subordinate Judges it is positively fallacious, in respect of securing evidence regarding consideration. The expenses and delay caused by it in the matter of small loans are noticed with general disfavour. As observed in my previous report, no system can afford protection where both parties combine together to misstate the character of the consideration given. As regards the inconvenience caused by delay and expense, there is much exaggeration. There can, however, be no doubt that compulsory registration of simple bonds may with advantage be dispensed with, and left to the option of the parties." (See paragraph 51 of the Report for 1888.)

Section 7, clause (1), requiring summonses to be for final disposal of the suit, gives undue emphasis to a rule which under the ordinary law a Subordinate Judge is left to apply with discretion. Clause (2) of the same, which requires the defendant to be examined, is of a similar character. In many cases the section operates as a hardship and the Judges agree that it holds out irresistible temptations to fraud and perjury.

The total number of redemption suits by agriculturists in 1888 was 435 (see paragraph 7 of Special Judge's report for 1888). He does not give the number under section 15A, but it was probably quite insignificant. This section, which empowers the Courts to allow redemption before the stipulated time arrives, if it does operate as a deterrent to lending, merely sends the needy rayat to some money-lender who charges high for the risk of being paid off at an inconvenient time, as the security is the best possible.

Going behind the bond, however, it might favour the debtor, when the creditor relying on the former law had not kept evidence of old transactions, would have no effect now in saving the Bijapur cultivators, if they are disposed to go recklessly into debt. What would be needed for that would be a law forbidding the recognition of debts at all beyond certain amounts in proportion to means. The reports of the Special Judge show that in the case of recent transactions where the evidence is clear, going behind the bond makes virtually no difference except in arbitrarily cutting down compound interest. The Special Judge says:

"The real fact is that, quite independently of the operation of sections 12—14, there is a normal tendency to award claims wholly or partly in 84½ per cent. cases, and to reject claims in 15½ per cent. cases, as is shown by the proportions of awarded and rejected claims in suits decided under the general law in the Subordinate Courts of the Presidency. This normal tendency is only slightly affected by the operations of sections 12—14." (See paragraph 20 of Report for 1888.)

And again:

"The inquiry into past history took place in a very small percentage of cases, and in its general effect secured an abatement of the interest charge by 25 to 30 per cent. Such inquiry did not result in a larger number of rejections, which were at the normal figure for the whole Presidency, but only diminished by 6 to 9 per cent. claims fully awarded and increased to that extent claims partly awarded." (Paragraph 55.)

Against loss on this account a creditor provides either by getting in his interest rigorously, by suing his debtor, or by handing him over to another creditor whose advance of money cannot be disputed or cut down. The whole result in 1888 of applying these sections was

to diminish the claims allowed in full by 6½ per cent. This is accounted for by the elaborate special provisions for taking accounts to the creditor's disadvantage, contained in sections 13 and 14, which would not bear on new debts. The difference in result between agriculturists' cases and the ordinary ones is, as the Special Judge shows in paragraph 20 of his report for 1888, almost insignificant—a result really not worth the elaborate and costly machinery employed to produce it.

So far as the welfare and comfort of the debtors themselves can be supposed to be promoted by the Deccan Agriculturists' Relief Act, other poor classes would benefit by it just as much as agriculturists. But the collection of the land revenue is less likely to be affected. Those, too, who are mere labourers can more easily run away than rayats anchored to their village by their ownership.

43. Appendix A, page 84, which gives some general statistics district by district of cultivation and assessment, explains several of the facts concerning Ratnagiri. It is much the most densely populated of the nine districts. There is but one per cent. of its area left available for agriculture. The land tax is for rice lands low. The considerable area of uncultivable land does not affect the question. In such circumstances with population pressing hard on the land, a great rise in rents and in prices is inevitable. As rents rise and become secure, capital is invested and hence the sale and mortgage prices rise.

If Khandesh be compared with the neighbouring Deccan district, it will be seen that Khandesh produces 44 per cent. of exportable non-edible crops, while Ahmednagar produces but 9 per cent. and Poona the same. The much greater mercantile activity here implied accounts for the great number of loans and transfers in Khandesh as compared with Ahmednagar and Poona, and these transactions are a sign of prosperity rather than of poverty. Bijapur again produces proportionately 70 per cent. more of exportable crops than the neighbouring Sholapur. This induces a natural increase in sales and loans. There may of course be some export of food-grains from the Deccan districts, but the comparison with their neighbours shows a general sluggishness and want of enterprise, the result very probably of want of ready access to capital. Even Nasik produces a relatively twice greater proportion of non-edible crops than its neighbours Poona and Ahmednagar do.

Page 84.

44. Appendix B (Registration Returns), page 85, shows that there has been a vast increase recently in the number of sales of land in the Deccan districts. Comparing the last two years the increase of sales of R100 and upwards was in—

Pages 85—86.

Poona	from	1,358	to	2,154
Satara	"	701	to	1,795
Ahmednagar	"	753	to	1,263
Sholapur	"	650	to	1,105
	TOTAL	3,462		6,317 increase 82 per cent. in number.

The total values are R15,96,987 and R25,16,342, showing an increase of 57 per cent. only in value.

This shows that it is chiefly the poorer holders who have been forced to sell.

In mortgages of R100 and over there has been a still greater increase, *viz.*, in—

Poona	from	1,393	to	3,028
Satara	"	611	to	2,571
Ahmednagar	"	565	to	1,098
Sholapur	"	422	to	818
	TOTAL	2,991		7,515 increase 151 per cent. in number.

The total values were R13,19,232 and R26,19,119, showing an increase of 97 per cent. in value, and leading to the same conclusion as the statistics of sales.

These figures relate only to transactions of R100 and more. Comparison of transactions below R100 is unprofitable, because in such cases the registration is, for agriculturists, compulsory as it falls under section 56 of the Deccan Agriculturists' Relief Act, but for other classes, optional and seldom used. The year 1887-88 shows a decrease, but only a small decrease, in the smaller mortgages. In the sales there is an increase. But in many cases such sales and intended mortgages are really effected without any registration by mere surrender and acceptance with or without a written note between the parties.

* Printed on 87 of the Selections.

45. If Appendix C* (Registration Returns under the Relief Act), page 87, be compared with Appendix B, the discrepancy is extraordinary. Appendix B shows a remarkable increase in sales and mortgages in 1887-88. Appendix C shows no increase in number and a remarkable decrease in amount for that year. Mr. Woodburn does not explain this.

Page 87.

Appendix C does not give the number of lease for periods exceedings one year registered in 1887-88, as the registration of such leases being compulsory they must (see section 9 of Act XXIII of 1886) be registered under Act III of 1877. A reference to paragraph 51 of the Special Judge's Report for 1888 shows the reason, *viz.*, that registrations that could be referred to the general Act III of 1887 have during the year 1887-88 been referred to it instead of to the Deccan Agriculturists' Relief Act. We are thus deprived of the guidance that the table ought to have afforded. But the year presents in all four districts a remarkable increase, almost 90 per cent. in the number of leases for one year and less. The actual figures are as under :—

	1886-87.	1887-88.
Poona	6,266	10,146
Satara	1,573	3,593
Ahmednagar	2,862	4,679
Sholapur	1,668	2,363
TOTAL	12,369	20,781

Such leases, as is well known, are very frequently mortgages in their real effect. Thus the indication of Appendix C agrees with that of Appendix B, that incumbrances in the Deccan districts are now increasing at a rapid pace.

But for the exclusion from Appendix C of the sales of more than R100 value in 1887-88, such sales being now registered under the ordinary law (see section 9 of Act XXIII of 1886) the returns would have shown a great increase in the number of sales by agriculturists, which for 1888 the Special Judge puts down at 26 per cent.

46. Appendix D, No. 1, pages 88—90, gives statistics of litigation. In all the four districts litigation increased in amount in the period 1884—87 as compared with 1880—83. In Ratnagiri and Bijapur not under the Deccan Agriculturists' Relief Act there was a decrease of litigation in the later period. But these tables laboriously compiled are yet almost useless, because they do not distinguish agriculturists' cases from others. In Khandesh, Nasik and Bijapur there was an increase in the later period of almost 100 per cent. in the suits on accounts. This arose from the developed mercantile activity of the later period, especially in the wheat trade. In Sholapur, one of the four districts, similar causes produced similar results. But these figures do not really concern the agriculturists in any serious degree. They affect an entirely different class.

Pages 88 to 90.

As to suits in which agriculturists probably were chiefly engaged, the four districts show in the later period 1884—87 as compared with 1880—83, an increase as exhibited below :—

Suits on bonds unsecured	from 3,600 to 5,100,	about 42 per cent.
„ on accounts	„ 4,700 to 7,300,	„ 55 per cent.
„ miscellaneous	„ 5,500 to 7,000,	„ 27 per cent.
„ miscellaneous suits relating to immoveable property	„ 8,900 to 12,000	„ 35 per cent.

These figures seem to indicate that from the time when the first effect of the Deccan Agriculturists' Relief Act on a mass of creditors unprepared for it had become expended, litigation began to rise towards its normal proportion and has continued to do so steadily.

It is remarkable at first sight that suits for redemption should have declined in the late period as compared with the earlier from 7,944 to 6,396, while foreclosure suits have increased from 638 to 1,319. These results are due to the same causes. Under section 10 of the Deccan Agriculturists' Relief Act there is no appeal in a mortgage case. The purely conjectural or arbitrary method of deciding mortgage cases approved and induced by the Special Judge's own decisions in revision, and the opportunity of suing almost gratis, led to an enormous multiplication of such suits having no substantial basis. Satara suffered most.

* Printed on pages 94 and 95 of the Selections.
† „ „ 96 to 101 „ „

Mr. Crowe (page* 149) says:

"Of 13,738 redemption suits disposed of in the last 8 years, 4,026 were disposed of by dismissal or withdrawal or in which no decree was passed."

The redemption suits in the Satara district in 1880 numbered 270, in 1883 they numbered 2,198. The matter about that time came under the notice of the High Court, which in some cases condemned the purely conjectural method and ruled that an alleged mortgagor suing to redeem must produce at least some *primâ facie* evidence of his title (see I. L. R. 9, Bom. 137). The consequence was an immediate decline in this class of suits, so that in 1887 the number in Satara had fallen to 305. Foreclosure suits became possible as soon as the mortgagee could count on a reasonable principle of decision and the number of such suits immediately sprang up in a way which shows how unfair creditors had thought the terms before.

Pages 91 to 93.

47. Appendix D (2), pages† 91, 92, 93.

The increases of suits against agriculturists, comparing the period 1880-83 with 1884-87, have been in—

							per cent.
Poona	from	7,500	to	9,500	about		27
Satara	"	7,000	"	11,000	"		60
Ahmednagar	"	6,600	"	11,500	"		74
Sholapur	"	2,600	"	2,900	"		11
Khandesh	"	25,800	"	38,500	"		50
Nasik	"	17,000	"	19,300	"		13
Thana	"	10,100	"	11,500	"		14
Ratnagri	"	11,900	"	12,100	"		2
Bijapur	"	1,786	"	1,548	decrease		13

This last result contrasts very strongly with the general increases of miscellaneous suits in Bijapur apparently indicated by Appendix D, Form 1, and the stationary character of the litigation there as a whole shown by the same table. We may hence gather the crudity of the results presented and the great possibility of their leading to false conclusions.

If we compare the percentage increases in litigation affecting agriculturists in proportion to population shown above, we find that it is growing on the whole far more rapidly in the four districts than in the five. In the latter indeed, except Khandesh, the growth is insignificant and in Bijapur there has been a positive decrease. We may gather that when once the form of transactions has adapted itself to the special law, the human characteristics which tend to litigation tend to raise it towards the same level everywhere. This must be more and more so as the special operation of the Deccan Agriculturists' Relief Act diminishes and this it does according to the Special Judge year by year.

A consideration of the latter part of this table in which the amount of litigation is compared in respect of suits per lakh of revenue for collection, *i.e.*, in respect of the assumed means of the litigants, leads to much the same conclusions as the last—

Poona	670	783	increase	17	per cent.
Satara	440	700	"	59	"
Ahmednagar	511	763	"	50	"
Sholapur	271	278	"	3	"
Khandesh	805	1,170	"	45	"
Nasik	1,258	1,312	"	4	"
Thana	752	950	"	26	"
Ratnagiri	1,390	1,374	decrease.		
Bijapur	149	120	"		

The results of the four districts as to growth of litigation thus contrast unfavourably with those of the five districts. If suits by agriculturists are, as seems to be thought, a token of their improving condition, then it appears that in the four districts such suits are decreasing while in the five they are increasing.

Pages 94—95.

48. Appendix D, Form 3, shows the general results of the trial of cases.

Compromised suits are not really suits without contest or rarely so, although in this table they are included amongst cases decided without contest. In the four districts as the defendant is compelled to be present in cases under the Deccan Agriculturists' Relief Act, many of these are in fact *ex-parte* cases. The defendant must generally be examined under section 7, and the Judge must make out a case for him if possible under sections 12 and 13, if he is an

* Printed on page 153 of the Selections.
† " on pages 102 to 104 of the Selections.

agriculturist. But the effect of this process is merely to increase enormously the decisions on "confession" and "compromise." The parties are put to great inconvenience and expense, dragged with witnesses to the Court over and over again because the summons must generally be for final disposal and all must be present though the case may not be taken up. Finally, the result after so much toil and harassment differs in only a minute degree from what it would be in an ordinary Court under the ordinary procedure. The Special Judge even seems to claim this as a kind of merit of the Deccan Agriculturists' Relief Act. His remarks have been quoted on page 75 of these observations.

It is to be observed that while the whole number of suits against agriculturists in the four districts has greatly increased, the number of decrees on confession has greatly diminished. Thus in Poona the decrease has been from 28 to 12 per cent. and in Satara from 14 to 6 per cent., while in the five districts there has been an increase in the percentage decreed on confession from 10 to 13 per cent. It is not to be supposed that the creditors have been induced by the Deccan Agriculturists' Relief Act to bring a greatly increased proportion of unrighteous claims. The statistical result is accounted for by what the Judges universally say of the unconscientiousness of defendants induced or encouraged by the Act.

Mr. Candy says (page* 139) that "many defendants seem to think that as a matter of course they must repudiate their debts."

Mr. Crowe says (page† 151) :

"There is more tendency now than before on the part of agriculturists to tell false stories about repayments and nature of debts. They feel almost cretain that if they plead that the consideration was old debt, when in fact it was cash payment, there is much chance of the amount claimed being reduced."

This is confirmed by the fact that in suits really contested by agriculturists, the percentage of decisions against them is twice as great in the four as in the five districts.

49. The table (Appendix‡ D) Form 4) is almost useless for the purpose in view, because it mixes up the executions against agriculturists with those against non-agriculturists which are subject to quite a different law.

Pages 96-97.

It shows, however, that even in the five districts in which imprisonment was a lawful means of enforcing payment, only in from 8 to 11 in 1,000 cases was this mode of pressure employed. Immoveable property was sold in the five districts in 44 and 38 cases in 1,000 in the periods 1880—83 and 1884—87 respectively. In the four districts it was sold in 39 and 18 cases in 1,000 in the same periods. Section 22 of the Deccan Agriculturists' Relief Act constitutes a special law of execution as to agriculturists' estates, but the table does not take notes of it. This section, which was to be the keystone of the Act has prevented the execution of decrees against agriculturists' real property. In other respects it has always been a dead letter. The Special Judge says (paragraph 30 of his report for 1888), that section 22 continues to be more and more inoperative.

It appears that in Ratnagiri, where the relations of the moneylending and borrowing class are very friendly, there were sales of land in 9 per cent. of the applications for execution in the period 1880—83, and in 6½ per cent. in the period 1884—87. In prosperous Bijapur, such sales took place in 6 and 4½ per cent. in the same periods. In impoverished Nasik, on on the other hand, sales took place only in 3 and 2·9 per cent. respectively. Under section 19, paragraph 1, and section 15, paragraph 4, of the Act, it is almost impossible that an agriculturist's property should be made available in any circumstances.

50. In examining the comparative results of decrees remaining unsatisfied for more than seven years, set forth in Appendix D, Form 6, it must be borne in mind that the court-fees in the four districts are cut down to one-half. Hence the low percentage of cost of execution. In the five districts the gross amount realized was almost 50 per cent. more than in the four districts.

51. Appendix D, Form 7, page§ 100, gives details of cases disposed of under Chapter II of the Act. Not a case has been disposed of for four years by the Special Branch. The enactments providing for it may well be repealed, being a mere dead letter.

Page 100.

The cases referred to arbitration acre so ludicrously few that the section 15 of the Deccan Agriculturists' Relief Act might be repealed as useless. It is equally out of favour with the Judges and the litigants.

* Printed on page 144 of the Selections.
† " " 154 " "
‡ " on pages 110 to 113 of the Selections.
§ " on page 116 of the Selections.

As suits of some common kinds against non-agriculturists fall under Chapter II and some common as against agriculturists do not, the table fails to give the definite information that was desirable. It appears, however, that in 1887, 7,449 defendants were examined under section 7 of the Act on disputes raised by them or in spite of them, by the Judge. Yet in only 1,157 or rather more than one in seven of these cases was any ground found for going further into the history of the case or "behind the bond." It is hardly worth while to retain the provisions with their demoralizing consequences for so small a material result. It is not stated what the ultimate results were in the 1,157 cases out of 14,145, but the Special Judge says this investigation makes but very little difference.

52. What is noticeable in Appendix D,* Form 8, which gives statistics of execution in suits under Chapter II of the Act, is that the number of executions by sale of immoveable property has more than doubled between 1884 and 1887, *i.e.*, from 149 to 310. In 1887 there was almost 50 per cent. increase over 1886. But different classes of decrees are so mixed that it is hard to get any clear indication from the tabble.

Page 101.

53. The table (Appendix E, Form 1, page 102, a statement of the aggregate debts of persons other than occupants of land and income-tax payers) is so purely speculative as to be useless. Why should the villages be inhabited according to the average of the district, and what have the inhabitants not included, *i.e.*, income-tax payers and land-owners, to do with the debts of contractors, shopkeepers, artisans and labourers ?

Page 102.

54. The sale returns (Appendix G, Form 2, pages† 106-108) from the various districts show that the assumption of 15 times assessment as value of land is purely arbitrary and generally quite wrong.

Pages 106 to 108.

These returns do not show that any district is in a state of general insolvency or approaching it. The valuation of the lands is purely artificial, but accepting it, the following table is deduced.

District.	Value of Land.	Burdens.	Percentage of Incumbrances.
	R	R	
Poona	33,00,000	18,00,000	54·5
Satara	35,40,000	17,50,000	49
Ahmednagar	33,90,000	5,67,000	17
Sholapur	15,40,000	3,00,000	20
Khandesh	26,17,000	6,77,000	26
Nasik	55,26,000	14,86,000	27
Ratnagiri	14,18,000	10,60,000	74
Thana	15,27,000	9,37,000	61
Bijapur	22,71,000	1,82,000	8

But if any value can be attached to the table at page 77, the valuation for Poona is much too low, still more so for Ratnagiri; considerably too low for Satara, while for Bijapur and Sholapur it is considerably too high. In Thana and other rice land districts it must be borne in mind that the assessment being 3, 4 or 5 times as high as is the Deccan, 10 or 12 times the assessment may represent as much surplus value as 30 or 40 times the assessment in Sholapur or Bijapur. As $\frac{1}{12}$ of the sale price represents a large revenue, so the $\frac{11}{12}$ represents a larger interest over and above it in the same proportion. It seems probable that the average proportion of incumbrances to land does not exceed about 25 per cent. of the market value. This is probably less than in England and far less than in many European countries.

* Printed on page 117 of the Selections.

† Not printed in the Selections.

The illusory character of these tabular statements is shown by comparing them with those at page 77. There the mortgage value is shown, and comparing them we have:

Poona	12·16	to	36·6 times the assessment.	
Satara	19·19	"	25·6	"
Ahmednagar	13·22	"	19·0	"
Sholapur	11·05	"	18·9	"
Khandesh	10·55	"	24·1	"
Nasik	13·97	"	19·7	"
Thana	12·44	"	42·8	"
Ratnagiri	37·49	"	17·3	"
Bijapur	13·11	"	15·5	"

So far as this table can be relied on, if we exclude Poona with its large city and cantonment, the value of land seems generally to be higher in the five districts than in the four. But again Bijapur, which is admittedly most prosperous, would, according to this table, be see down as the poorest district in the surplus value it leaves to the occupant (*i.e.*, in proportion to his assessment). It is not safe to rely much on the table.

55. Appendix E, Form 4, pages 112 and 113, gives statistics of occupants who are, and those who are not, sawkars.

Pages 112 and 113.

It affords only the means for a very defective indication as is shown by the contrasts shown on page 108. There was in all probability no very accurate test applied of who is a sawkar. Everywhere the number of capitalist landholders has increased since 1876-77, except in Sholapur. The most instructive comparison is between districts under, and not under, the Deccaan Agriculturists' Relief Act since that Act has been in operations. The following table shows the number of sawkar occupants in 1883-84 and 1887-88 in the selected villages for which statistics are given*:—

	1883-84.	1887-88.	Increase per cent.
Poona	1,058	1,405	32·8
Satara	223	247	10·7
Ahmednagar	957	1,086	13·2
Sholapur	44	52	18·2
Khandesh	313	351	12·1
Nasik	719	771	7·23
Thana	288	337	17 0
Ratnagiri	174	208	20·0

This shows that land everywhere is becoming more and more the property of moneyed men in obedience to economic tendencies, which are but slightly affected by the laws of procedure. Sawkars by profession are not generally anxious to become landholders: they prefer turning over their money. But as they take land for security they are often obliged to become proprietors.

These percentages are hardly reconcilable with those given in Form No. 4 on page 113 How illusory such tables may be, is seen by comparing this page (113) with the next (114). As the number of sawkar occupants and occupancies has considerably increased in Poona, while the area held by them has diminished, they must have come into possession of a very large number of small holdings. In Ratnagiri the proportion of sawkar occupants is only 4·2 per cent. The formidable looking increase in the abstract value is due to the extremely small proportion in 1883-84. There is nothing alarming in these figures, nothing to call for the application of violent or abnormal methods.

In Poona there is a large field for investment in house property and to this sawkars have quietly resorted, as they collect their rents with less trouble and are less defrauded by tenants Page 114 shows that there are 3½ times as many unacknowledged holdings by sawkars in Poona as acknowledged, and that on the whole sawkars in that District now hold lands assessed at more than ⅓rd of the amount paid for all the remaining lands held by those who are not sawkars

In Satara there are 6 times as many unacknowledged holdings as acknowledged once by sawkars. The assessment of the lands held by sawkars is more than ¼th of all that is paid by the remaining classes.

In Ahmednager the unacknowledged holdings of sawkars are about 1·5 of those acknowledged and the assessment paid approaches ⅓rd of all paid by other classes.

* Printed on pages 126 and 127 of the Selections.

In Sholapur the holdings are small in number, but the unacknowledged are more than three times the acknowledged ones. The assessment on the two together is considerably more than $\frac{1}{4}$th of what is paid by all other classes.

In Khandesh the unacknowledged holdings are double the acknowledged ones, and the assessment paid is rather more than $\frac{1}{5}$th of that paid by other classes.

In Nasik unacknowledged are almost 3 times the acknowledged. The assessment paid is between $\frac{1}{4}$th and $\frac{1}{3}$th of that paid by other classes.

In Thana the unacknowledged are almost four times the acknowledged. The assessment paid is a good deal more than $\frac{1}{2}$ what is paid by other classes.

In Ratnagiri there are about $3\frac{3}{4}$ unacknowledged to 1 acknowledged. The assessment paid approaches $\frac{1}{2}$ of that paid by other classes.

The general result is that in Poona and Ahmednagar the sawkars hold about 50 per cent. more of the land than in the adjacent districts of Khandesh and Nasik. In Satara they do not hold so much, owing to the large number there of moneyed Kunbis who supplant the ordinary sawkars. In Sholapur there is but little land to tempt a sawkar, but in Thana and Ratnagiri capital is largely invested in rice lands, which are inevitably getting possessed by the moneyed classes.

Page 77 shows that a considerable number of persons, called sawkars as being capitalists, are also agriculturists. They have been purchasing waste lands in Khandesh and Ahmednagar, and no doubt taking up a good deal in Nasik and elsewhere. This would account for a great part of the extension of the area held by the moneyed class, without supposing the ordinary agriculturists to have been displaced in districts like Khandesh, Nasik and Bijapur, where there is still a considerable reserve of waste land (see p. 7). In Poona and the other districts under the Deccan Agriculturists' Relief Act, there is little or no waste land avail able (pp. 1 and 2), and consequently the acquisitions made by sawkars must have been at the expense of the agricultural classes. But even then the line is not precisely drawn between sawkars and cultivators. In Bijapur, since the famine, sawkars have been found in many instances to seek and investment in land or to take up land as their only resource (see page 3).

56. (Page 116.) This abstract of occupancies held by persons of different castes at different periods, and the preceding table on page 115, of occupancies held by money-lending classes are almost useless, because in Poona, Satara and Ahmednagar the castes included are those of money-lenders, while in the other districts many cultivating classes, Maratha, Mali, Kunbi, Rajput, Mussalman, Christian, Pardeshi, etc., are included. What appears is that sawkars' holdings in Poona have steadily increased, while in Satara, Sholapur and Ahmednagar there has been a reaction. In the five districts there has been a large increase of holdings by people of miscellaneous castes. In Bijapur nearly all the cultivators are Lingayats. The general conclusion is simply that these miscellaneous classes, of whom sawkars are but a small fraction, have been multiplying, and therefore overflowing on to the area capable of cultivation. Here is no cause for alarm or regret.

Page 116.

PART II.

Observations on the Deccan Agriculturists' Relief Act, especially as reported on by the local Judges.

1. *Section 3.*—The Act is termed one for the relief of indebted agriculturists. But the most numerous classes of suits, those included in (*w*) and (*x*), of sub-section (*b*) of section 3, *i.e.*, suits for the recovery of money; of rent; of moveable property; of the value of moveable property; and of damages, are subjected to the special law, no matter who the plaintiff or defendant may be.

Not more than half the suits even in an agricultural district are brought against cultivators. Hence the results of the Act as they appear in statistical tables must be largely discounted before they are taken as so much relief to agriculturists. It may be that the other classes need special protection quite as much as the agriculturists, but the true state of things ought to be kept in view.

It appears that the Act lends itself to virtual cheating by sawkars and others who acquire an artificial status as agriculturists under the Act. This is shown by the Judge of Ahmednagar (page 165). (See also pages 139, 170, 175, 181.) Such devices are inevitable unless the laws are equal for all classes.

Comparison with the working of the ordinary law is further obscured by the special remissions of fees and the premiun held out to plaintiffs to proceed under the Act when there is an option (see page 153).

That other poor and helpless classes need protection quite as much as agriculturists is strongly pointed out by the Subordinate Judge of Shevgaon, pages 165, 166.

2. *Section 3 (a) Account suits.*—In 1888 there were but 28 suits under this clause in the whole Deccan. The Special Judge is no doubt right when he says "these suits are only brought because parties are not required to pay any stamp duty in respect of them. Most of them are converted into redemption suits after judgment, but before signing the decree. The total exemption allowed to such suits may now safely be withdrawn." (Report for 1888, paragraph 6.)

3. *Section 3 (b) (y). (Suits for foreclosure or for the possession of mortgaged property.)*—The inconvenience of having different laws for different classes has been illustrated under this enactment by the whole of the mortgagee's remedies being changed or annihilated through as interest in mortgaged property (even a house in a town) being conveyed to an agriculturist or by one of the mortgagees qualifying as an agriculturist under the wide and often varied definition given in section 2 (see page 165).

If I remember aright the mortgagee's claim was thus embarrassed by some one who could be deemed an agriculturist having acquired by purchase or inheritance a share of about $\frac{1}{12}$th in the equity of redemption.

4. *Section 3 (b) (x) Money suits*).—Under this clause an agriculturist is sometimes put forward as a dummy owner of the equity of redemption or of part of it. For some time the suit costs almost nothing in Satara and speculative claims became a great abuse (see the observations of the District Judge of Satara on page 149). The evil is now diminished, but not destroyed (see Mr. Candy, Judge of Poona, at page 139).

5. Sections 5 and 6, which relate to the jurisdiction of Subordinate Judges, are general in their terms, but section 5 says the provisions of the Chapter II shall apply only to particular suits. This of course governs sections 5 and 6. The result is very confusing. It would surpass the intelligence not only of a rustic but of a trained lawyer to say with certainty what jurisdiction any particular Subordinate Judge had.

The difficulty of determining who is and who is not an agriculturist under the Act is dwelt on by the Subordinate Judge of Shevgaon (page 166).

6. *Section 7 relating to the disposal of a suit at the first hearing, and the compulsory examination of the defendant.*—There are some advantages in the compulsory examination of the defendant (see page 153); but they are too dearly purchased.

It generally seems *possible* to dispose of a suit at the first hearing, though in a very large number of cases this result is not attained. The Judge of Poona (page 139), says: "Very seldom can the Court dispose of the suit at the first hearing."

The Subordinate Judge of Shevgaon says (page 167):

"When the Court has succeeded in finding out as best it can what his (the defendant's) defence is, and having framed issues and a date fixed for taking evidence (for never will a defendant bring his witness on the first day of hearing), then on that day he is generally not to be found, or, if present, will be without his witnesses."

The defendant must be examined except in special cases. He may have no real defence nor any notion of seriously denying the plaintiff's claim, yet he must be dragged away from his plough to the Court again and again. By selecting the time for filing his suit judiciously, the plaintiff may thus cause infinite harassment to the defendant. The Subordinate Judge of Parner says (page 169):

"There is nothing to prevent the sawkars, if they be minded to be spiteful, so to time their suits as to compel the agriculturists' defendants and witnesses to be absent from their fields when they can least afford to do so."

The Judge of Satara says (page 148):

"The summons to the defendant is generally for final disposal. The plaintiff has his witnesses in attendance at the Court on the day appointed. If on that day the defendant does not appear, a warrant is issued for his arrest and production before the Court, and the plaintiff and his witnesses are directed to appear again at the next hearing. This necessitates the payment of second batta to witnesses. If the warrant is returned unexecuted, the hearing is again adjourned, and the plaintiff and his witnesses are again ordered to appear on a subsequent day. If when the defendant finally appears he pleads that the consideration of the bond was an old debt, the plaintiff is required to produce in Court his account books to have the history of the debt investigated. This enquiry into the past history and the examination of a number of witnesses, which it invariably involves, causes much loss of time, trouble and expense to all the parties concerned."

The provisions of this section coupled with those of sections 12 and 13 which provide for going behind the bond, add enormously to the cost and harassment of litigation. (See the quotation above from page 148.)

7. *Section 8* (*excluding written statements*).—Why a plaintiff or a defendant should not be allowed to file a written statement of his case in a suit for damages or on a written or unwritten engagement as under the ordinary law, is unintelligible, unless it was desired that blunders of decision should be concealed. Under section 10 no appeal is allowed and the function of revision under sections 53 and 54 is impeded when the revising officer is deprived of the aid that would be given by a perusal of the parties' own written statements even if prepared by pleaders.

8. *Section 9.*—Of this section the Special Judge says in his last report:

"The summary procedure laid down in section 9 was, as usual, not followed in most of the Subordinate Judges' Courts. Only four Subordinate Judges (Baramati, Karad, Tasgaon and Sangamner) report that they followed the procedure in 15 cases. The summary procedure cannot be safely followed in contested suits, which are few, and there is no occasion to follow it in suits otherwise disposed of." (See paragraph 9 of the report for 1888.)

9. *Sections 12, 13* (*about going behind the bond*).—The uncertainty of judicial decisions is everywhere recognized as a public misfortune. Under no system could it be greater than the one embodied in these sections. This is shown by the Judge of Satara at pages 146 and 147. The Subordinate Judges have to work in the dark or in the twilight, and piece out by more conjecture the feeble and untrustworthy *indicia* that are to be had beyond the bond and acknowledgment of the alleged debtor. In numberless cases the gordian knot has been cut by assuming that the true principal of a bond debt was the moiety of the apparent amount of the obligation (see pages 146 and 156). The creditor was taught to consider the signature of his debtor sufficient, as no doubt it is in every civilized country, and neglected to preserve other evidence if it existed. The Act reversed all this (see page 147) The provisions of these sections drove the creditor from the Courts. Then there were felicitations on the decline of litigation. But transactions were by and bye shaped to meet exigencies of the new law, sometimes by dishonest devices (see page 159). Creditors seeing they had a chance of recovering the debts due to them began to sue more frequently. In 1885 the number of suits filed was almost double the number in 1880 (see page 142). Since 1885 there has been a decline, but still the increase over 1880 is considerable. Considering how utterly ineffectual the means of execution have been under the Act, the loan transactions must bear a far greater proportion to the suits than in other districts. The human tendency to borrow and lend finds exercise in spite of Statutes and the precariousness of the lender's position under sections tending to high demands of premium and interest, becomes a crushing tax on the honourable and enterprising class of cultivators. The elaborate process after the first effect of this Act was spent, really leaves things very much as they would be without it. (See page 156.)

The Special Judge in his report for 1888 says:

"The enquiry into past history does not increase the number of rejections. It only alters in favour of agriculturists the relative proportion of claims allowed in part, and to that extent slightly diminishes the proportion of claims allowed in full" (pages 10 and 11).

Again he says:

"The enquiry into past history took place in a very small percentage of cases, and in its general effect secured an abatement of the interest charged by 25 to 30 per cent". (Paragraph 55.)

Section 13 rests on false principles—on obsolete prejudices it might be said—conceptions about compound interest as narrow and erroneous as those which for centuries made the taking of interest at all a crime in Europe. Sub-section (*d*) is a virtual prohibition of the annual rests and making up of accounts between a lender and borrower, to which the lender himself has to submit and by which the borrower may profit if he lends to one not an agriculturist. The regular money-lenders of small sums in Indian villages are mostly supplied with capital by more wealthy sawkars at about 8 or 9 per cent. per annum. Suppose one of these borrows at 8 per cent. and lends at 50 per cent. more, *i.e.*, at 12 per cent. Suppose further that the purpose of the Act is carried out by the credit of the later borrower being extended to 12 instead of 6 years (section 72). Then for R00 which he has lent, the sawkar can recover R244, unless indeed the law of *Dam dupat* is applied (section 13 [*g*]): and his claim is cut down to R200. But under the system of making up accounts annually he will himself in the same time become debtor for R252. The debtor may even have re-lent the money at one or two per cent. less than he agreed to pay for it, to a non-agriculturist or he may have secured his interest in money or grain year by year and turned it to profit, and so

have realized a good deal more at the lower rate of interest than his creditor can recover from him at the higher rate. It is obvious that business cannot be honestly carried on upon such terms, unless the money-lender rigorously exacts his interest every year or else defeats the Act by the device of solemnly handing to his debtor R112 in presence of the Registrar as consideration for a new bond, which sum is immediately afterwards handed back to him to discharge the old bond. This practie is not uncommon. But it is less common than the immediate return of part of the principal under the name of commission or premium to compensate the lender for this risk. It is in either case still the interest of the creditor to force his debtor to early payment (see page 151); and thus in the case of new bonds the purpose of both section 13 and section 72 is defeated. A forced admission before a conciliator recorded as a decree leaves no further room for the operation of sections 12 and 13, and the practice is not uncommon (see pages 144 and 163).

There can be no objection to a Court's making a searching inquiry when a defence is set up on the ground of fraud, undue presure and the like, or even when the evidence suggests that undue avantage has been taken. But now the Court is bound to make out such a defence if it can even when the debtor admits the claim. The result of this is thus pointed out by the Subordinate Judge of Parner on page 171:

"The Act affords great facilities for getting rid of one's legal and moral obligations and is in a greae measure calculated to impair the moral sense of the community. If the full logical effects of the Act are seldom seen, it is because moral and social questions are governed by certain higher laws which operate in defiance of legislative interference. I think the law of the Civil Procedure Code is to a large extent free from these objectionable features."

The temptation thus placed in the way of the agriculturist is too great for him. The local Judges agree that lying and dishonest defences are encouraged by it, and that on the whole it it has a very depraving effect. In the economical sphere it is impossible that the result should not be mischievous, but creditors now guard themselves so carefully that the operation of the section is much limited. These precautions, however, are themselves an obstruction to business of a serious character, and the registration of ordinary business documents made necessary by section 56 *et seq.* and attended with laborious ceremonies, is almost universally condemned (see page 152 and the Special Judge's report for 1888, paragraph 51). Sometimes these very ceremonies are converted into an instrument of fraud (see page 175). The defences raised by the section are turned, very often, by means of the machinery of conciliation (Section 43 *et seq.*).

The District Judge of Ahmednagar very pertinently asks (pages* 156, 157):

"Is it really necessary to continue powers entirely opposed to the ordinary law and its development, such as the power to set aside contracts without proof of force or fraud, or that it was an unconscionable bargain, the power to reduce interest deliberately agreed to be paid, the power to oust mortgagees in possession before payment of the debt, and the power to refer suits to arbitration where there is not enough evidence? The exercise of such powers must produce the utmost uncertainty of decision and dissatisfaction to at least one side; it must often depend on the fancy of the individual Judge, and it must react on the Judges themselves."

The District Judge of Poona says (page† 138):

"Several Subordinate Judges express a fear that they are working more or less in the dark, and under such circumstances there must be some uncertainty."

The attempt to elicit conculsions where there are really no data, to go behind the bond when all behind it is as behind the looking glass, tends to fabrication and falsehood. Thus the District Judge of Satara, quoting a Subordinate Judge, says (page 151):

"The greatest evil which the system of the Relief Act has wrought is that it has much impaired the moral condition of the agriculturists as also of those that have to deal with them. There is more tendency now than before on the part of agriculturists to tell false stories about repayment and nature of debts, They feel almost certain that if they plead that the consideration was old debt, when in fact it was cash payment, there is much chance of the amount claimed being reduced. The creditors also in order to evade the necessity of furnishing the history of old dealings, falsely have the consideration described in bonds as cash payment. In such cases the money representing the full consideration is often actually paid in cash to the debtor in the presence of the registering officer, and taken back immediately after the execution of the document is completed. In not a few of the cases of this sort the registering officer, who is usually a low-paid man, is privy to the fraud and is required to be propitiated. Then in some cases sales are effected where mortgages were intended."

The District Judge of Satara points (page 145) to the extraordinary increase of redemption suits under the Act, simulated by the remission of institution fees. Many of those were utterly groundless and in fact instituted by a dummy plaintiff, the tool of some schemer, who is kept in the back ground (see pages 139, 142, 149). Agriculturists themselves speculatively bought up stale equities of redemption, valueless in the hands of the real mortgagors, but becoming a valuable property immediately on transfer to one enjoying the speeial advantages of the Act. (See page 149.)

* Printed on page 159 of the Selections.
† " " 144 " "

The operation of sections 12 and 13 is attended sometimes with considerable hardship to the parties. The District Judge of Poona writes (page 138):

"Cases are to be found where the provisions of sections 12 to 14 have operated harshly on the sawkar; and there is no doubt that in many cases the continual adjournments which are necessary to *force* the defendant to appear do cause hardship. The summons is generally for the final disposal of the suit (section 7), and the plaintiff has often to bring his witnesses to Court and send them away unexamined."

The most common form of mortgage in the Deccan, one in which five-sixths of all mortgages used to be made, is that of an antichresis whereby the mortgagee takes land as security for a loan; and takes its profits in lieu of interest (see page 8). This form, common on the Continent of Europe and at one time in England, is the best adapted to a people in a not very advanced condition. It requires no accounts: the owner parts with the smallest necessary portion of his land: and he knows exactly what he is doing and what he will have to pay. It is peculiarly suited to loans by cultivators because they can turn the pledge to the best account. All the many thousand mortgages of this and similar kinds were suddenly upset by the Deccan Agriculturists' Relief Act. The mortgagees were called on to produce accounts which they were under no obligation to keep and on their failure to produce them, accounts were made up in a purely arbitrary manner, on a basis of conjecture and hard swearing encouraged by some peculiar views of the Special Judge, which there was no opportunity of correcting by appeal. No wonder that under such a system suits for redemption multiplied exceedingly when they could be brought gratis, or that creditors now are very shy of accepting mortgages except with special precautions. Such as are taken are in a great measure from non-agriculturists; the rayat is forced to sell or to pass a surrender which operates as a conveyance, or is kept in hand by the creditor, to be made use of as occasion may require.

10. *Section 14.*—This section, which contains the provisions of the Act regarding interest without section 13, contains a principle to which no objection can be taken and which might be generally adopted. It might be epitomized thus:—

"Whenever the rate of interest stipulated for in a contract appears grossly unreasonable under the circumstances, it may be presumed that the agreement to pay so much was unfairly obtained and it shall be subject to revision by the Court."

Mr. Crowe, the District Judge of Satara, says of this (page 42)—

"All of the Subordinate Judges have reported favourably on this particular provision of the Act as tending to introduce fairness and equity in the transactions of parties who are naturally so unequally matched as the money-lenders and the agriculturists. There can be no doubt that one marked effect of this provision has been a moderation on the part of the sawkars in the rate of interest demanded in all their recent transactions."

In practice as Mr. Crowe, quoting the Special Judge, observes (see also page 142):

"The percentage of cases to which sections 12, 14 are applied amounts roughly to 24 per cent.; the proportion of abatements varies from 30 to 32 per cent.; and this reduction is stated to be confined to an abatement of the interest claim and seldom touches the principal."

It seems obvious from the testimony of the Special Judge himself that all the good done by the elaborate process provided for by sections 12 and 13 could be sufficiently attained by an enlargement of the equitable powers of the Courts in the sense above suggested. (See the Special Judge's report for 1888, paragraphs 20 and 21.) This should be general.

11. *Section 15,* which provides for a reference to arbitration in certain cases, is of little or no use. If the parties are willing to go to arbitration they can do so without the aid of the Court. The ordinary law affords every necessary facility. The appointment of arbitrators to solve problems that puzzle the Court through the absence of data, leads to no satisfactory results. The number of cases actually referred to arbitration is quite insignificant.

12. *Section 15A—D,* which provide that a mortgagor may obtain redemption before the stipulated time; that payment by instalments may be ordered in redemption; and that a mortgagor may sue for an account, are all highly favourable to the mortgagor in Court. But they impose such onerous terms on a mortgagee that agricultural mortgages are naturally shunned by capitalists. They take a conveyance or a *rázináma* (surrender), not because they are anxious to become landowners, but to make themselves secure. But the consequence is to throw the debtor into a more dependent position than he ever was before. The rayat has to pay for the bad security the law compels him to offer. The large quantity of land held really by sawkars, though not in their own names, has been noticed by Mr. Woodburn (paragraph 24).

The way in which these sections were worked along with sections 12 and 13 may be learned from the description given by the District Judge of Ahmednagar on pages 155 and 156:

"Where the agriculturists had mortgaged their property they were relieved by the setting aside of their contracts and an investigation into the amount of the debt, by the wholesale reduction of interest and

permission to pay the debt by instalments, and in some cases by possession being given even before the mortgage-debt had been paid off.

"It is plain, therefore, that the condition of the agricultural classes was immensely improved by the above alterations of the law, and two facts assisted the effect of those alterations.......The greatest number of redemption suits and of suits on bonds which sprang up after the Act, were decided on the simple plan of taking half the amount of the last bond as principal and half as interest. It was not till 1887 that the High Court checked this practice, and it became possible for the money-lender to receive something like the sum fairly due to him on his mortgage."

13. *Sections 16-18* providing for a suit by an agriculturist for an account and for cutting down the creditor's claim; for instalment decrees; and for payment into Court of the amount found due, may have been pretty in theory, but they have little or no practical value. So long as an account could and would be made up by mere guess-work, some suits were brought under these provisions, but they are now virtually useless for either good or ill.

14. *Section 19* parctically empowers a Court to make an insolvency order without application. Of both clauses of this section the Special Judge reiterates in his last report that they "remained inoperative as in previous years."

15. *Section 20* empowers a Court to fix instalments in execution. There can be very few decrees left now, of a date anterior to the Act, on which final orders have not been passed. As for other decrees the Courts assumed a power of varying the orders as to instalments from time to time so as to leave the creditor in a state of complete uncertainty, until the High Court declared that only one change could be made. A decree once made ought to settle the relation of the parties as firmly as a transfer of property and the provisions contained in section 210 of the Code of Civil Procedure are more just and reasonable than section 20 of Act XVII of 1879, which leaves the creditor, perhaps himself also a debtor, entirely at the mercy of any caprice of the Court. This is illustrated by the District Judge of Satara (page 147). The Special Judge (paragraph 24 of his report for 1888) appears to think that instalment orders under the Act have facilitated recovery on decrees. But a reference to his Appendix H shows that in 1887, while the amount of the instalments claimed was upwards of six lakhs, the amount recovered was less than one lakh. In 1888 the proportion was nearly the same. The amount recovered in orders actually made on applications under instalment orders in 1887, appears to have been but little more than one-fifth of the amount of the orders.

16. *Section 21* providing that no agriculturist shall be arrested in execution, has enabled the agriculturist debtor to set the decree-holder at defiance. Now that crops can be attached the case is altered. But the provisions of sections 245 A and B and 337 A of the Code of Civil Procedure leave nothing to be desired on the score of leniency to an honest debtor unable to pay. The crude provision in section 21 of Act XVII of 1879 invited him to become a rogue.

17. *Section 22*, which exempts immoveable property from attachment and provides for the Collector taking over management of an indebted agriculturists' estate, has defeated creditors effectually in the past. Now it can no longer defeat them. The District Judge of Ahmednagar points this out. He says (page 158):

"But the recent amendment of the law, which allows standing crops to be attached, nullifies to a large extent the benefit to the agriculturists from the exemption of their lands from sale. The expenses of the attachment fall on the agriculturist and he does not even recover the value of the seed-grain."

Yet this remedy is far more costly to the cultivator than profitable to the creditor. This is put strikingly by the Subordinate Judge of Parmar at page 168, where he says:

"In the recent amendment of the Act, standing crops have been declared to be available for the satisfaction of decrees. This is some concession to the creditor, though, I fear, in actual practice it is a concession which tells heavily against the agriculturist debtor himself. I must explain. A standing crop may be attached at any stage. Being immoveable property its sale is regulated by the rules regarding the sales of immoveable property. The time fixed for sale may be extended by applications for raising the attachment. This means further delay. During all this time the crop has to be tended if young; weeding, etc., has to be performed; if the crop be bagait it has to be watered at stated times; if the ears be in corn, it has to be protected from the ravages of birds and beasts. All this is done by the creditor; for the debtor, the moment the crop is attached, ceases to take any interest in it: and this is done by paid labour at a time when agricultural labour is dear. These costs are included in the costs of execution and have to be paid by the debtor. Sometimes such costs may exceed the judgment-debt."

The watching of crops while they grow and ripen is a very expensive process. The rayat residing near his fields has opportunities for withdrawing part of his crop which the creditor cannot entirely contend against. When coercion is to be employed, perhaps the best method

is that which within admitted limits, is the sharpest and shortest, as this is most effectual and economical, and produces least exasperation.

This section in fact, which was to be the keystone of the Act, is simply a dead letter or a means of wholly defeating decree-holders. In his last report, paragraph 30, the Special Judge says:

"Section 22 continues to be more and more inoperative. There was only one Court, that of Kopargaon, in which applications were male by the judgment-creaditor under this section. In all the other Courts, no action was taken under this head. The reasons for this failure have been noted in previous reports, and I expect no improvement in this connection."

The District Judge of Poona says (page* 138);

"But as to effectual execution the complaints are numerous. There is so little to be obtained in execution and so much time and trouble are wasted in obtaining that little."

Again (page 139):

"Repeal section 22, clause (2). It is useless."

The District Judge of Ahmednagar says (page 176);

"The power to attach standing crops given by the last amendment will effectually remove the benefit of the provision that land cannot ordinarily be sold. One half the standing crops, after deducting the part attached or required for payment of assessment, should be exempt from attachment to prevent lands going out of cultivation and to enable the agricluturist to recover the actual cost of cultivation."

The Subordinate Judge of Shevagaon says (page 160):

"The recent amendment of the Civil Procedure Code leaving it to the discretion of the Court whether a judgment-debtor shall be arrested and imprisoned in execution of a decree reduces the difference in this respect between an agriculturist and a non-agriculturist to the minutest proportions. And I do not think that if in this respect the special provision in the Relief Act were withdrawn, there will be any special hardship to the agriculturists."

And again this Subordinate Judge says (page 172):

"The Civil Procedure Code has exempted a good deal of an agriculturist's property from attachment and sale, and has given him and others immunity from personal arrest and imprisonment except for contumaciousness or fraud. The difference, therefore, between the effects of the ordinary and the special law will not henceforward be very great."

18. *Chapter IV, Sections 24—33 (of Insolvency).—*

The usefulness of this may be judged from what the Special Judge says (paragraph 25):

"Under the Insolvency Chapter no proceedings were taken in any of the Courts, except one solitary application in the former Court, which application was rejected."

The Insolvency sections in the Code of Civil Procedure provide in a more practical way for the few cases that occur, than the fanciful enactments of this chapter.

19. *Chapter V, Sections 34—37 (of Village Munsifs).*—Provides for the establishment of Village Munsifs. The peculiarity of this institution is that in practice it has little or nothing to do with agriculturists.

The District Judge of Satara says (page 145):

"It is admitted by the Special Judge that as a measure of relief to indebted agriculturists the institution of Village Munsifs has not proved to be of any importance, and that it is only prized in taluqa towns where there is a trading community or a considerable industrial population living on wages, and that with the general mass of the People it is not popular."

The last report of the Special Judge (paragraph 33) shows that in the large towns such as Ahmednagar and Sholapur, and even in Barsi and Junnar, a large number of suits were brought before the Village Munsifs, which would ordinarily be disposed of by the local Subordinate Judges. In purely rustic places the work is insignificant. Twenty-five of the Village Munsifs disposed of less than ten suits each; thirteen disposed of none at all. The chapter obviously has no proper place in an Act "to relieve the agricultural classes." Whether on its own merits the institution of Village Munsifs is worth keeping up and extending, is another question. The Village Munsifs are necessarily an ignorant set of men. Probably the work would be better done by Head Clerks of Subordinate Judges' Courts constituted Registrars and given jurisdiction up to R10.

The District Judge of Satara says (page 145):

"The expediency of investing with the judicial powers irresponsible and unpaid persons having local prejudices and local symphathies and antipathies is doubtful."

The District Judge of Ahmednagar says (page 177):

"As to Village Munsifs, I see no objection to suits being heard by them where qualified persons can be found; but I see no particular advantage. The Subordinate Judges could dispose of the suits in their former Small Cause jurisdiction readily and with, I think, greater advantage and satisfaction to the public."

* Printed on page 144 of the Selections.

20. *Chapter VI, Sections 38—49 (of Conciliation)*.—Mr. Crowe, District Judge of Satara, says (page 142):

"One of the most important features of the Act was the establishment of Courts of Conciliators on the model of those obtaining in France."

It would seem that the history of the conciliation system in France had not been really studied before it was crudely adopted. In 1790 all suits beyond the competence of the *Juge de Paix* (Fr. 100—200) were made subject to a prior attempt conciliation before the *Juge de Paix*. By 1866 the Courts of First Institution and of Appeal united in demanding the suppression of the system as useless. It was preserved with limitations, but as to cases that have to be brought before a higher tribunal conciliation is now regarded in France as a pure formality. At the same time the *Petite conciliation, i.e.*, the attempt of the *Juge de Paix* to bring to terms those who must otherwise sue before him, is considered successful and useful. The ordinary text-books on French Procedure show this.

The reason for the difference is mainly that the jurisdiction of a *Juge de Paix* (from 100 without appeal, to 200 francs subject to appeal) is limited to suits of a personal kind or affecting moveable property. Where more difficult questions come in, the conciliatory function fails.

Large classes of cases are entirely excluded from "conciliation" either *ratione personæ* as when minors or guardians or trustees are concerned, or *ratione materiæ* as in the case of rent, professional fees and legacies; or because of the delay, as mercantile cases; or when more than two parties are concerned on account of the extreme difficulty of bringing three or more to an exact agreement.

There are many other specific exceptions, and the general result is that the conciliation system is applied or succeeds only in petty simple cases, wherein the conciliator will by and bye be judge.

Now at page 143 Mr. Crowe has given a table which shows that after an increase during some years the number of agreements effected by conciliation fell off greatly in 1886 and 1887, so as in fact to be fewer than in 1880, while the suits filed were far more numerous. Another table given at page 143 shows "that the conciliation system has not been successful in effecting agreements between the parties in more than one of five cases coming under it." There it is shown that the parties in increasing proportions refused or failed to attend. In 1880 the proportion was 56 per cent., in 1886, it was 88 per cent. of the cases of non-reconciliation.

The persons most interested having thus shown that in the vast majority of cases they found "conciliation" a waste of time, Act XXIII of 1886 was passed and came into force on 1st January 1887. Under this a conciliator may be armed with powers to command the parties to come in and submit to conciliation. Neglect to appear is made a penal offence. Accordingly in 1887 there was a small increase from 19·5 to 21·1 per cent. of agreements effected. The cases of failure through refusal to attend fell in 1887 from 88 to 80 per cent. of the whole, which was to be expected, seeing that 59 conciliators were armed with compulsory or imperative powers. In 1888 the Special Judge (paragraph 36) reports that the 55 conciliators, who could compel attendance, succeeded in getting 5 per cent. more persons before them than the conciliators having no power of constraint. But this advantage was almost exactly nullified by 5 per cent. more refusing to be reconciled under compulsion. The Special Judge therefore has to remark: "The improvement, therefore, noticed in the last year's report as the consequence of the amendment of the law has not been maintained this year in increasing the proportion of agreements or in diminishing the proportion of failures" (paragraph 36, page 21 of the Report for 1888). Paragraph 18 of the same report shows, that in the non-conciliation talukas, the compromises are 54 per cent. of the suits, whilst in the conciliation talukas they are but 25 per cent. This shows plainly that the parties, if disposed to agree, can do so as well without the intervention of a conciliator as with his assistance.

It cannot then be said that as a whole the conciliation system has been anything but a failure. In the tables presented year after year in the Special Judge's reports, this is disguised by a minute sub-division of the cases before the conciliators under different classes. One such table is given at page 20 of the report for 1888. There the cases of failure are set down as 13,657 in 1888 and 13,704 in 1887. Such cases as those "Struck off for default" are apparently considered by the Special Judge instances of the success of the system. The correct way of presenting the facts is that out of 29,130 applications disposed of in the year, 5,207 resulted in agreements and 23,923 in non-conciliation. To the 5,207 ought perhaps to be added 11 references to arbitration. That year after year it should become more difficult to

drag litigants before the conciliation Courts, and that conciliation should be actually effected in only about 2 cases out of 11, the parties and witnesses in the others having all the trouble of attendance (perhaps repeated attendance) for nothing, is enough to condemn the whole system. Those who know what litigation is and what litigants are in this country must on close inquiry be driven to the same conclusion that three generations of experience have led to in France. The *Petite conciliation* of a judicial officer in easy and trivial cases is really useful; in the more difficult cases and those which involve any large interests, conciliation becomes, as a French lawyer has called it, "a form or a farce." For trifling cases (up to R100) of simple debt and relating to personal property, conciliation by the Subordinate Judge or his registrar might be made a part of the general system. In all other cases it should be abolished as an imposture.

To make the system effectual, only ¼th of the full institution fee should be exacted in the first instance, the remaining ¾ths should be payable only at the stage next after failure of conciliation. The District Judge of Ahmednagar (page 177) thinks that the system of returning half fees in case of agreement works at least as well as conciliation and much more cheaply. But deferred payment would be far more effectual than a return of fees. When his stake is once down, a plaintiff often gets possessed by a gambling spirit from which till then he is free.

Some suspicion is in one or two places thrown on the character of the conciliators. It is said (see page 139) that a few of them have grown rich. I do not think there is any substantial ground for this imputation. The failure of the system is not connected with corruption, but as the District Judge of Satara says (pages 143-144):

"The men appointed would appear to be unfit for cases of an intricate nature which are brought before them. They have neither the capacity, nor the leisure, nor the disposition to conduct a lengthened inquiry into the past history and merits of a dispute. The consequence is, that the procedure before a conciliator is now purely a formal matter, and therefore imposes additional trouble and expense on litigants."

That in spite of the purity and general goodness of intention of the conciliators, the proceedings before them are sometimes turned into a means of fixing on a defendant a claim which he might justly have resisted seems beyond a doubt. Cases of doubt, fraud or terror, in which a debtor is frightened or cajoled into admissions before a conciliator, which become the basis of an indisputable decree, are not, I think, at all numerous. The evil is wrought in another way thus described by a Subordinate Judge (see page 144):

"The conciliators have no power to compel the production of accounts; they have no reliable means to ascertain the true state of the transaction; they cannot refuse their sanction to an agreement settled by the parties between themselves: such settlement between the parties is not the result of successful mediation: the sawkar turns to account his advantages, and imposes upon the ignorance of the agriculturist classes. The system does not seem to be in harmony with the general spirit of the Act; its results in the majority of the cases are not favourable to the agriculturists, as they enable the sawkars to evade the special provisions which were intended for their benefit."

Even the Subordinate Judges, as the Special Judge has repeatedly admitted, have not succeeded as conciliators except in a very qualified degree. They could not overcome the defects inherent in the system. It is one of possibly useful but very narrow application. The unprofessional notion that satisfactory conclusions in cases of complicated litigation could be arrived at simply by an exercise of common sense, without serious and patient and orderly investigation, has not for the first time, been proved to be utterly unsound. Of the 20 per cent. or so of cases in which conciliation is effected, it is pretty certain that the great majority would equally be settled by compromises or arrangement, if the plaintiff could go straight to the Court (see page 143.) In the last report of the Special Judge (paragraph 18) it is shown that where there are conciliators the proportion of compromise is but 24¾ per cent.; where there are no conciliators, the compromises are 54 per cent. of the suits. It is the interest and the good sense of the parties, not the wisdom or influence of the conciliator, that brings about an arrangement.

21. *Chapter VII.* (*Superintendence and Revision*).—The general effect of this chapter, when it has a specific effect and is not made the basis of an anomalous appellate jurisdiction, has been to substitute casual or unaided revision for appeal and to replace the District Judge by a Special Judge aided by two Assistants. These gentlemen are all persons of character and ability, but the Assistants can only make reports and recommendations to the Special Judge. Any peculiarities of view entertained by the latter are not necessarily subjected to the scrutiny they would have to undergo, if he ventured to throw them out in hearing an appeal. Once embodied in a decision, his error is for a long time, and a large number of cases, probably stereotyped. No appeal is allowed. It is but slowly or by some stroke of good

fortune that the erroneous principle at last comes into debate in the High Court. The most important principles do in time get settled in this way and hence there has been of late years much greater confidence in the Courts working under the Act. The increasing number of acceptances of its rules where they might have been rejected (see page 144) is in some measure a proof of this. Partly it is due, however, to the premium offered for accepting the procedure of the Act (see page 153). It must be ascribed in a still greater measure to the adaptation of recent transactions to the terms of the Act and the gradual exhaustion of the older ones entered into without any anticipation of it. (See page 159).

If revision were a really sufficient substitute for appeal, there is no reason why it should not be made a part of the general system of Civil Procedure. But every professional man knows that there is really no comparison between the effectiveness of the two methods. Glaring errors even on the record may escape the weary, uninterested glance of an official reviewer. Of faults outside the record he knows nothing. In appeal both are dwelt on and thoroughly sifted. This is the greatest safeguard of justice.

After the Act had once been fairly brought into operation the office of Special Judge became from the juridical point of view distinctly injurious. Had ths business of revision been left to the Judge of each district, any peculiar notions as to law and procedure entertained by him, would have been tested and corrected by the arguments heard by him in appellate cases and by the judgments on appeals from him to the High Court. Tne Special Judge, confined to a routine of revision not subject to appeal is in a measure placed beyond the reach of pointed instruction. An error once adopted by him may spread all over the Deccan and vitiate decisions for a long time, without correction. The Special Judge is an able and zealous officer, but he holds a position for which even a Hardwicke would hardly be fitted. Another phase of the case is presented by the District Judge of Ahmednagar. The District Judges, he says, on page 177.—

"Could have carried out the duties imposed on the Special Judge with the help of an Assistant or Subordinate Judge from the outset with far less cost to the State, and Government would then have had the benefit of the opinions of four separate officers on the working of the Act instead of the opinion of only one officer, who from his very position was more or less bound to suport the Act as a whole. It was probably considered necessary to have some officer who should start with an enthusiasm for the Act, and so help it in working successfully; but no reason now appears why so expensive a machinery should be retained."

The District Judge of Satara observes in the same connection (page 153):

"The time has now come, in my opinion, for doing away with the special machinery for administering the Act and delegating the duties under it to the District Judges in each of the four districts on the grounds both of efficiency and economy."

The Act has brought revision of the laborious kind described, to bear on a large number of petty suits that have never elsewhere been thought to be fit subjects for it. The District Judge of Ahmednagar says (page 155):

"I have never heard it suggested that there is any need of revision or that the revision has been of any real value. And it is difficult to see why this class of suits was included, unless to make work for the special officers."

And again on page 176:

"The system of revision is most cumbrous and expensive, and has no decided advantages. At present not only are petty suits revised when the parties make an application, when practically revision only differs from an appeal by no stamp duties being required from the aggrieved party, but the Special Judges go on tour and revise the records of all or most of the petty suits. When an application for a review is made, it is referred by the Special Judge to an Assistant; the Assistant submits a report and then the Judge passes an order. Two Judges, therefore, have to go through the case and there is a waste of power."

The District Judge of Sholapur recommends that (page 181):

"The revision work, instead of being done by the Special Judge, be left to the District Judges. This would ensure economy without sacrificing efficiency."

The Subordinate Judge of Parner says (pages 172 and 173):

"The number of purely agriculturists' cases is not, in my opinion, such as to give employment to a Special Judge, and consequently he has been given jurisdiction in other cases also, on the principle, as it appears to me, of finding work for a man and not a man for the work."

The Subordinate Judge of Gadag says (page 191):

"At present the division of supervising business between the ordinary and special tribunals causes immense confusion"

The Judge of Ahmednagar also points out (page 158) that the system of revision under the Act could be most effectually and conveniently carried out by the District Judge and his Assistants. There is, as the same Judge shows (page 158), a great waste of power and of

* Printed on page 174 of the Selections.

public money in carrying out the Act. This is inevitable so long as the Subordinate Courts of a district have to work on two different systems and under two different superiors.

An extension of the power of examination and reference of cases not subject to appeal, might with advantage be allowed to District Courts. The power of reference given by the Civil Procedure Code, section 646 B, is too restricted. The knowledge that the District Judge can do nothing tends to make some Subordinate Judges careless in trying Small Cause suits.

22. *Chapter VIII, Sections 55—63 A. (of Registration by Village Registrars).*—There is a general consensus as to the uselessness or worse of this chapter. In his last report the Special Judge says (see para. 51, page 27):

"Very few Subordinate Judges have expressed any opinion about the working of the registration system, and most of the Subordinate Judges have referred to their previous reports. The general sense, however, seems to be that while the system prevents fraud in regard to the execution of documents, it is not equally useful, and in the opinion of many Subordinate Judges it is positively fallacious in respect of securing evidence regarding consideration. The expenses and delay caused by it in the matter of small loans are noticed with general disfavour. As observed in my previous report, no system can afford protection where both parties combine together to misstate the character of the consideration given. As regards the inconvenience caused by delay and expense there is much exaggeration. There can, however, be no doubt that compulsory registration of simple bonds may with advantage be dispensed with and left to the option of the parties."

The District Judge of Ahmednagar thinks that village registration is useful as a means of authentication (p. 177), though he excepts autographs and documents for sums of less than R20.

The District Judge of Satara says (page 145):

"In a vast number of cases the objects for which this present registration system was framed are not attained. The agriculturist debtor who sorely in need of money is ready to consent to anything which may be written in the document as to the nature of the consideration. The farce actual payment of cash before the registering officer is actually gone through, but it affords no guarantee as to the real nature of the transactions, as the money is duly returned to the creditor as soon as the business before the Registrar is effected.

And again (page 152):

"I think that the whole law relating to registration may be expunged from the Act. The compulsory registration of every petty money transaction is found to be a source of immense hardship and expense to the cultivators. The provisions regarding the compulsory registration of instruments relating to land of whatever amount or value may be retained, but that result could be accomplished by trifling alteration in section 17 of the Registration Act."

The Subordinate Judge of Parner shows how registration is perverted into a means of fraud. He says (page 172):

"I wish to suggest that the necessity of registration of money bonds may be done away with. In practice it adds not a little to the embarrassment of the debtor. If the debtor is illiterate there is as much room for fraud with registration as without registration; whereas if the debtor is a writer, registration serves no great purpose. The Registrar is to state whether any part of the consideration passed in his presence. Even this statement is not always a safe guide. For the creditors have learnt how to cheat the law. Not unfrequently when the bond is for an old debt they hand over to the debtor the full amount of the bond in the presence of the Registrar and take it back from him when fairly out of the registration office. Registration of instruments affecting immoveable property is necessary in order to put persons subsequently dealing with the same property on their guard. But registration of simple money bonds or khalas or one year's leases have no such purpose to serve."

So, too, the District Judge of Satara says (page 151):

"The creditors also, in order to evade the necessity of furnishing history of old dealings, falsely have the consideration described in bonds as cash payment."

The District Judge of Ahmednagar gives a striking instance. He says (page 175):

"To avoid the operation of the Act, sham transactions are gone into before the Village Registrar by needy debtors, colluding with the money-lender to make the renewal of a debt appear as a genuine cash advance. In a case before me the defendant pleaded that he had not received the cash amount set out in the bond, but had only received a sum nominally before the Registrar and had then returned it, and it appeared that such a transaction was what had really occurred."

The Subordinate Judge of Shevgaon says (page 159): "that when the old bonds are renewed, they are passed as for fresh advances;" and "the Registrar himself cannot always know the fact. He has to write what parties may tell him, and the sawkar will necessarily take care, if he is not sure of his village registrar, to bring the debtor ready prepared before the registering officer. The debtor being anxious to get the fresh advance must submit to the sawkar's tutoring or forego the advances an starve."

And (page 164) he suggests an amendment:

"The abuses of compulsory village registration have been partially above referred to. It is well nigh impossible to stop them altogether. But some improvement may perhaps be effected by relaxing the stringency and the universality of registration and making it compulsory only in transaction s above a certain amount, for instance R20 or so, and withdrawing from the jurisdiction of village registrars money documents above R50 and all documents relating to immoveable property."

Such a system is not worth keeping up at the cost shown by the Inspector-General of Registration, who says (page 156) that the village registration system in 1887-88 was worked at a loss of R24,921.

23. *Chapter IX* (*of Receipts and Statements of Accounts*).—This Chapter deals only with receipts and statement of account. It is of no importance. But even the benevolent departure from the general law contained in these provisions appears to be attended with a counter-balancing danger. The District Judge of Ahmednagar says:

"Money-lenders do not always give receipts for payments, as required by the Act. 'And the complaint being general,' says one Subordinate Judge, 'agriculturists in almost every case plead payments, saying that the money-lender refused to give them receipts for the same. And then they call a number of their friends and relatives to swear to the alleged payments. Hard swearing has thus become the order of the day.'"

In his last report the Special Judge (page 29, para. 53), observes:

"The Subordinate Judges report generally that the provisions of Chapter IX are more attended to than before, but there does not appear to be much progress made under this head. There were 43 prosecutions against 50 of the previous year, out of which 39 were made on the complaint of parties, and only 4 were sent to the Magistrate by the Civil Courts. There is, therefore, no improvement under this head to report."

It does not seem to have occurred to the Special Judge that a decline in prosecutions might be due to the fewness of occasions for prosecution.

24. *Chapter X* (*Legal Practitioners*), *Sections 68-69*.—It is desirable perhaps that legal practitioners should be excluded from the Courts of Village Munsifs. The reasons for this exclusion are at the same time reasons against the institution of Village Munsifs.

Before conciliators legal practitioners have manifestly no proper place; yet if the difficult questions that arise in cases of mortgages, leases and complicated transactions connected with advances on crops, have to be appreciated by untrained and unprofessional gentlemen, they, even more than Judges, appear to need such aid as pleaders can give them.

Chapter XI (*Miscellaneous*), *Sections 70—76.*

Section 70 (*Mortgages, etc., to be valid only when written*).—The purpose of the Act having been in a great measure to keep the cultivators on their holdings, it is important to observe that at the first approach of pressure in 1888 the number of sales and mortgages of those holdings increased in an almost alarming degree. The slight scarcity that prevailed was felt in Ahmednagar and Sholapur. In the former, sales increased 14 per cent. and mortgages more than 30 per cent. in value; in the latter, sales increased 21 per cent., while mortgages decreased 2 per cent. Of all the four districts the Special Judge in paragraph 51 of his report for 1888 says: "Taking the average of the previous three years, it appears that the number of sale instruments in 1888 has increased by 26 per cent.; of mortgages by 31½ per cent.; and of bonds by 17½ per cent." The larger proportional increase in the number of transactions than in their value, shows how the pressure immediately became too great for the poorer classes of the peasantry. Here it is plain money-lenders took alarm and insisted on sales instead of mortgages. The sales and mortgages were for the most part of the smaller holdings. The concurrent still greater increase in simple bonds does not of course mend matters. But as in some places the Special Judge has been glad to observe the diminution of borrowing, so here he finds a source of felicitation in its almost portentous increase. He says (page 28 of his report):

"And yet the increase in simple bonds by a larger proportion than the corresponding increases in other instruments in Sholapur shows that the personal credit of the agriculturists has greater power of self-sustension than would otherwise be supposed to exist in these districts."

So far as can be seen there is no reason to suppose, but that as soon as the immediate benefits to the raiyats of the *seisachtheia* of 1879 have passed away, they will be in any way better prepared to support the strain of three or four bad seasons in succession than they were in 1876—79. The general expansion and activity, the turning of agricultural industry to the production of exportable articles which may be observed in neighbouring districts, such as Khandesh and Bijapur, is generally wanting. Population is increasing and with population the occupation of waste lands is increasing at about 1 per cent per annum (Special Judge's Report, page 30); but there are few or no signs of the augmenting intenseness of cultivation which at the present stage ought to accompany the occupation of the last leavings of the waste lands.

Meanwhile the acquisition of land by capitalists in acknowledged or unacknowledge forms is going on, though not at a great pace. If it is intended to prevent a gradual ousting of the peasantry, other means will have to be devised than mere obstruction to creditors in recovering their dues. Transactions which are now adapted to meet the exigencies of the Act, and while

section 70 allows raiyats to sell and mortgage freely, and other parts of the Act force creditors to demand real security, the general transfer of proprietorship must at every season of pressure be accelerated, not retarded by the Act. A Subordinate Judge very sensibly remarks (pages 171 and 172):

"If the intention of the Legislature was to prevent the agriculturists' immoveable property being sold in execution of decrees, that intention is being frustrated. Immoveable property when specifically pledged is still liable to be sold, and the sawkar now rarely advances money except on the security of immoveable property, not to speak of actual sales. The Act, therefore, is beneficial to the agriculturists only as regards transactions entered into before its introduction. Suits in respect of such transactions have been exhausted. The great majority of suits which now come up for adjudication relate to transactions entered into subsequent to the introduction of the Act, and these being generally secured by mortgage, the debtor receives very little substantial relief."

Every difficulty thrown in the way of the creditor raises in some shape the cost of his accommodation. Every precariousness about recovery on an account or bond makes him seek a pledge. Every uncertainty about recovering on a mortgage must make him press for a sale. The ceremonial safeguards of section 70 secure the authenticity of the transactions by which, in a time of continued scarcity, the policy of the Act must be frustrated.

Section 72 is the limitation section of the Act; it is not without supporters (see, *e.g.*, page 185). It extends the periods of limitation to 6 and 12 years. It is said that amid the general anxiety to acquire the status of an agriculturist a certain number of psrsons sued after the lapse of the short ordinary period of limitation (3 years) have set up the defence that they were not agriculturists, in order to get the benefit of a bar to the suit (see page 170). Such cases are not very numerous. At present the creditor takes care to get interest paid or a new bond passed often enough to prevent section 72 from having any effective operation. (See page 151.)

The section presents most curious anomalies. Thus, if a creditor relying on the section has postponed suing for more than 3 years and, his debtor dying, is succeeded by non-agriculturist, the claim which was perfectly good yesterday is barred to-day. Again, a man may have ceased for several years to be an agriculturist and looking back over the ordinary period of limitation may feel secure, when suddenly some claim is sprung upon him because he was once an agriculturist. It may be one in which the law gives him a recourse against a third person, but as the latter never was an agriculturist, the claim against him may have become barred by limitation. It is needless to pursue such odd consequences further. The District Judge of Satara points to the anomaly of different periods of limitation for different classes (pages 152 and 153). He says:—

"The provision regarding the extension of the period of limitation is one which has proved of great advantage to agriculturists, and there would seem to be no good reason why this provision should not extend to non-agriculturists also, as the anomaly of applying different periods of limitations to different classes of debtors will thereby be avoided and one of the most futile causes of complaint against the money-lending class will be removed. As a rule the sawkar does not resort to the Civil Court till his remedy is on the point of being barred by limitation, and the longer the period of limitations the less necessity for renewing the bond. The Courts would thereby be saved the labour of hearing and deciding those suits which are instituted simply with the object of keeping the bonds alive when there is no hope of recovering anything from the debtors."

Section 73A, which exempts certain agricultural produce from attachment, is a supplement to section 22, and made the obstruction to execution raised by that section insurmountable until crops became available. The power to levy on them is generally enough for all purposes of the creditor.

PART III.

A general view of the Effects of the Act.

I.—*As to celerity of litigation:*—

There is a consensus of opinion that litigation under the Deccan Agriculturists' Relief Act is less speedily brought to a close than litigation under the ordinary law. Mr. Woodburn shows this by a table on page 47. It is also shown at pages 148, 169, 174, 180 and 189.

The causes are the interpolation of the conciliator, and the forced and generally delayed attendance of the defendant and his witnesses.

Celerity in execution is an impossibility, the difficulties imposed in the way of execution on immoveables and the frequent grant of instalment decrees being all against it (see page 148, 169, 174, 180 and 189.)

II.—*As to certainty* :—

There is less certainty under the Deccan Agriculturists' Relief Act, *i.e.*, given the pleadings and evidence in a case it is less easy to predict what will be the result under the Deccan Agriculturists' Relief Act system than under the ordinary law. There is almost a consensus of opinion on this point also. See what Mr. Candy says (page 138); Mr. Crowe (pages 146 and 147); the Subordinate Judge of Parner (page 169); Mr. Tagore (page 179); and Mr. Wagle (page 189 :—

The Subordinate Judge of Shevgaon alone (page 160) of the Judicial officers seems to think that the systems are about equal, but even he practically admits that the balance inclines in favour of the ordinary law.

The reasons are that in the first instance it is uncertain who is and who is not an agriculturist, and, secondly, as has been repeatedly pointed out, the system of going behind the bond and differentiating principal from interest leads to much guess-work.

As regards execution, as has also been pointed out repeatedly, the uncertainty is almost reduced to a certainty that any effort to obtain satisfaction of a decree for an unsecured debt will be unproductive, unless standing crops can be attached (see pages 148, 168 and 169).

III—*As to convenience* :—

Of the Judicial officers most conversant with the working of the Act, Mr. Tagore, District Judge of Sholapur, alone finds that the Deccan Agriculturists' Relief Act gives greater convenience in litigation than the ordinary law (page 180). He bases his opinion on the increased number of Courts and on conciliation. The increase in the number of Courts is undoubtebly a convenience and its extension is purely a matter of cost. But conciliation on its present extended scale is generally condemned. Looking to the greater delay in litigation under the Deccan Agriculturists' Relief Act; to the harassment to parties and witnesses consequent on the adjournment necessarily following the non-appearance of a defendant; to the fact defendants themselves and witnesses may be dragged from their fields at the busiest season for cases in which the defendant has no valid defence; and to the very great difficulty in executing decrees, the other Judicial officers are of opinion that the system of the Deccan Agriculturists' Relief Act compares unfavourably with the ordinary law in point of convenience (see pages 138, 148, 160, 169 and 174), section 5 of the Act prevents any Subordinate Judge from being invested with the powers of a Small Cause Court. The Subordinate Judges are thus driven back on the procedure of the Act in all the petty cases to which it extends and prompt adjudication is made impossible in a multitude of other cases. The summary procedure of section 9 applies only to cases of R10 and less. It is hardly used, as not affording the materials requisite to satisfy a judge in revision under Chapter VII (see page 172).

IV.—*As to economy*:—

As Mr. Crowe says (page* 149) :—

"With regard to economy, there can be no doubt that the present system of differential fees is a gain to the litigants, and that the percentage of costs incurred is less than that obtaining under the ordinary law. If the fees in what are termed ordinary suits were reduced to the amount of those levied in suits under the Act, this advantage would be extended. The question, however, of the imposition of Court-fees is one which has only an ancillary connexion with the objects of the Act and is one to be determined by fiscal considerations only.

(See also pages 138, 161, 170, 174, and 180.)

The gain in a reduction in institution-fees is, however, to some extent annihilated by the extra cost of witnesses for the defendant, incident to the efforts necessarily made to provide him with a defence; and by the repeated journeys of witnesses to the Courts consequent on the frequent adjournments to secure the attendance of the defendent and his witnesses. But as regards institution-fees it must be remembered that the rayat's gain is the revenue's loss. The very great loss to Government has been dwelt on at page 46 of these observations.

V.— *As to the effect on litigation* :—

The Judge of Poona considers (page 139) that the system of the Deccan Agriculturists' Relief Act does not tend to the institution of many righteous suits which would otherwise be suppressed, but that it has encouraged to a material extent the institution of unjust and speculative suits. The District Judge of Satara (page 149) considers that it has led to the institution of many righteous and of many unjust and speculative suits that would otherwise have been suppressed. (See also pages 161 and 180 to the same effect.) The Subordinate Judge of Parner (page 170) finds that the Act has led to the institution of few righteous or

* Printed on page 152 of the Selections.

speculative suits that would otherwise have been suppressed. Mr. Walker, Judge of Ahmednagar (page 174) finds that many just and few unjust suits have been encouraged.

Broadly, therefore, the Act may be said to have encouraged, as was inevitable, the institution of both just and unjust suits. But the just suits were mainly for redemption, and as nearly one-third of these were dismissed or withdrawn, it is evident that even in redemption suits there was much speculative and unjust litigation. Such suits are now almost exhausted, so that the encouragement to just institutions is well nigh spent.

Mr. Crowe (page 152) thinks that suits relating to mortgages should not be included under Chapter II of the Act and that decrees therein should be subject to appeal.

VI.—*As to economic effect* :—

The economic effects are to some extent treated of in the notes on Chapter XI (pages 92 and 93 of these observations). Mr. Candy summaries them thus (page 139) :—

"The Act has tended to improve the material condition of the rayats, because it has freed some from a heavy load of debt. But it has ruined some small money-lenders (whether that is to be regretted or not is a different question), and it has generally weakened credit : it has also to a certain extent caused a degeneration of tone among the community......It may be admitted that many rayats have become energetic and careful of their own interests, but their energy is often turned in a wrong direction ; credit being lessened, the introduction and application of capital are impaired. Sawkars are generally averse to giving loans except on the security of land."

The District Judge of Ahmednagar discusses the economical effects in his district at pages 155 and 156. He states that where agriculturists had not mortgaged their property they were almost completely exempted from payment of debts, for their lands could not be touched : their cattle were generally exempted by the provisions of the Civil Procedure Code; of other property they had very little; and they themselves were exempted from imprisonment. Even where their poperty had been mortgaged, the mortgage debt was largely reduced and payment by instalments was frequently decreed. Consequently the condition of the agriculturists was immensely improved. But now that the 'rule' of estimating a debt as half principal and half interest has been stopped by the High Court, and attachment of standing corps legalised, the creditors are rapidly recovering lost ground. This Judge adds :—"It is not too much to say that the whole history of the Act and its economic effect would have been entirely different if crops could have been attached from the outset and if the Courts had not adopted the 'half-interest half-principal rule'" (page 156) :—

The Subordinate Judge of Shevgaon in Ahmednagar says (page 162) :—

"The Act tends, so far as it goes, to improve the material condition of the agricultural community. The humbler class of money-lenders shows a tendency towards deterioration and they are likely to give up the business altogether. But I do not think that the more flourishing and well established class will disappear. Without them agriculturists cannot possibly go on, unless Government is prepared, which is neither possible nor desirable, to take their place.

And again (page 163) :—

"What I mean to say is that special Acts like the present Relief Act can do but very little to improve the material and moral conditon of the community. But within their bounds, that Act, I think, tends more than the ordinary law to facilitate that object."

The same Subordinate Judge again says (page 167) :—

"If the rayat is not helped in the matter of the payment of the dues of Government by an adjustment of the time of payment to the actual gathering and sale of crops, and by a reduction of assessment where it might be heavy, he will ultimately be reduced to the necessity of falling as completely as ever in the hands of the creditors."

The Subordinate Judge of Parner, also in Ahmednagar, says (page 170) :

"The economical conditon of the community as a whole is therefore not healthy. If before the Act the sawkar had the better of the debtor, since the Act the debtor has had the better of the sawkar. The terms of the equation are the same, only transposed."

The District Judge of Ahmednagar again sums up the economic effect thus :—

"The effect of the Act as applied to pre-existing contracts has undoubtedly been to improve greatly the material condition of agriculturists, both through the provisions of the Act and the mode in which it was worked. The practical effect often was to reduce mortgage debts by about one-half, and, in the case of all other debts, to make repayment optional at the will of the agriculturists (pages 174 and 1 5). After the first effects of the Act on pre-existing contractes had passed away, and especially since creditors have been able to attach crops and the Courts have refrained from guessing at the principal debt, the money-lenders have rapidly regained their ground and influence" (page 176).

In Satara the economic effects are thus described by the District Judge on page 150:—

"In the Satara District the circumstances are somewhat different from those in the other three Deccan districts. About 60 per cent. of the so-called Sawkars are actually agriculturists, so that the material condition of the indebted agriculturist has been for the most part benefited at the expense of the well-to-do and thriving agriculturists. Almost all the persons consulted concur in saying that the rayat's credit has fallen in a great measure, and that there is a great difficulty for any but well-to-do cultivators in obtaining advances except under special guarantees of security."

And again:

"In the Satara District, the fact that the area of the cultivated land is yearly increasing, that the proportion of *bagayat* land is now higher than ever and the number of live stock, milch cattle, carts, plough, etc., higher than before, is due to the fact that the agriculturist capitalists are now diverting their capital from a money-lending business to agriculture as offering the best security for their money."

The District Judge of Sholapur says (page 180):

"It is perhaps premature to enquire whether an improvement in the material condition of the rayat has taken place. The system of relief in question has been in force for less than a decade. It has not yet been subjected to the strain of a famine. One thing is certain, that the agricultural classes have lost their credit with their sawkars.'

Mr. Baker, the District Judge of Nasik, who has had some experience of the working of the Act in other districts, says (page 184):

"It is doubtful whether any sound conclusions as to the effects of the Act can as yet be drawn. The test of such an exceptional price of legislation would be a famine or general scarcity in the districts under the Act. Since the introduction of the Act the harvests, as a rule, have not been bad, at any rate there has not been such a failure of crops as would as press hardly on the rayats. If the Act has been successful, the rayats would, in a bad season, be able to tide over the difficulty without either applying to Government for remissions, or having to borrow from sawkars at ruinous rates of interest."

And again:

"If the Act were introduced, the larger sawkars would naturally call in their money, the smaller sawkars would receive no benefit from the Act; while they would have to comply with the cumbrous procedure and submit to the delays which are the necessary consequences of the Act. They would be ruined, and the credit of the rayats would be destroyed at the same time. To ruin a class of men, who, with all their faults, are useful, cannot be advantageous to the people at large, and to destroy the credit of the rayats is not the best way to give them relief."

Mr. Wagle, the Subordinate Judge of Gadag, says (page 190):

"It is a notorious fact that since the Act has been in force the sales by the agriculturists of their property have become more numerous than before. The aforesaid remarks will show that there has been no substantial change in the material condition of the community under the Relief Act.

It is to be borne in mind, however, that the improvement which has taken place in the material condition of the people is not confined to the Deccan and is largely due to good seasons (see pages 157 and 175).

The curtailing of credit has led in a good many instances to reduction of needless expenditure and reduced prices (see page 167). But it checks necessary borrowing even more and thus interposes a great obstacle to enterprise and development. The German economist Roscher remarks that such regulations benefit the senility of economic science, which keeps its children for ever in the cradle for fear they should fall and hurt them selves. With this view may be compared the somewhat similar one given by the Subordinate Judge of Parner (page 171).

Mr. Tagore, the District Judge of Sholapur, says* (page 180):

"There are no signs of individual energy. The relations between the debtor and creditor are getting strained." (See also page 190.)

VII.—As to moral effect:—

Compare here the remarks on Section 3 (pages 72 and 73 of these observations) and on Chapter VIII (pages 89 to 91 of these observations) of the Act.

The following quotations will illustrate the views there stated:—

"There is a consensus of opinion that the Act has encouraged to a material extent the institution of unjust and speculative suits. Instances are often met with where redemption suits have been brought when there was really no mortgage. Stale claims have been revived, and the enquity of redemption is sometimes assigned by a non-agriculturist mortgagor to an agriculturist in order to obtain the benefit of the special provisions of the Act. Also it is said that false defences are more frequent now. and certainly exaggerated estimates of the profits of lands are continually made."—(Mr. Crowe, District Judge of Satara, page 139.)

* Printed on page 166 of the Selections.

"The Subordinate Judge of Wai, Mr, Bodas, states his opinion that the greatest evil which the system of the Relief Act has wrought is that it has much impaired the moral condition of the agriculturists, as also of those who have to deal with them. There is more tendency now than before on the part of agriculturists, to tell false stories about repayments and nature of debts. They feel almost certain that if they plead that the consideration was old debt, when in fact it was cash payment, there is much chance of the amount claimed being reduced."—(The same, page 151.)

"Agriculturists in almost every case plead payments, saying that the money-lender refused to give them receipts for the same, and then they call a number of their friends and relations to swear to these alleged payments. Hard swearing, therefore, has become the order of the day, and the demoralising effects thereof must be incalculable."—(The Subordinate Judge of Shevgaon, page 164.)

"The Act has a decidedly demoralising tendency."—(The Subordinate Judge of Parner, page 170.)

"The Act affords great facilities for getting rid of one's legal and moral obligations, and is in a great measure calculated to impair the moral sense of the community. If the full logical effects of the Act are seldom seen, it is because moral and social questions are governed by certain higher laws which operate in defiance of legislative interference. I think the law of the Civil Procedure Code is to a large extent free from these objectionable features."—(The same, page 171.)

"With respect to the moral effect of the Act, the result must, in my opinion, be injurious, though perhaps sufficient time has not yet elapsed for it to be clearly distinguished."—(Mr. Walker, the District Judge of Ahmednagar, page 157.)

"The Act has now taught the people that they will not be compelled by law to fulfil all obligations which they may incur. Thus I think the Act has to a certain extent demoralised the people. I therefore say that the Relief Act has not tended to improve the material and moral condition of the people. The Procedure Code compares, in my opinion, more favourably with the Act in these respects."—(The Subordinate Judge of Gadag, page 190.)

PART IV.

Possibilities of Remedial Legislation.

1. It is quite plain that Government has exactly the same problem to face now that it had in 1876 or 1879. The only difference is that the greater freedom of movement and communication attained during the last ten years gives to men of intelligence, energy and pliancy, an ever-growing advantage over their stolid and inert neighbours. It is plain, too, that the merely obstructive devices of the Deccan Agriculturists' Relief Act afford no final solution of the problem to be dealt with. The Act, as several of the Judges have shown, is now everywhere discounted. The artificial defences it raised for the agriculturist are in many places occupied by his enemy. The rayat has to pay for every difficulty placed in the way of his creditor. He is tempted to dishonesty at the same time that he is left unprotected in the long run against the greater sagacity and strength of the moneyed class. Completeness of ownership and freedom of contract furnish him with the means of destroying as well as of improving his own prosperity. If he is to be maintained in his present position as master of many elements of relative happiness and content, he must be subjected to certain checks, surrounded, but also possibly hampered, with safeguards to his unlimited free agency; which otherwise he will use to his own ruin. The Act itself, as some of the Judges have pointed out, involves the inconsistency of, in many sections regarding the Deccan agriculturist as a mere simpleton incapable of making a contract without risk of being taken in, incapable of guarding his own interests in the most ordinary transactions, and yet in others giving full effect to his alienation or incumbrance of his estate, to his declaration before a Registrar or his admission before a Conciliator becoming almost forthwith the basis of an irreversible decree. When such helplessness as the main provisions of the Act assume is a prevailing characteristic of the peasantry, it seems far better to guard their interests by direct methods, by limiting their rights and capacities for their good, where mischief threatens, than to provoke them to a contest of astuteness and chicanery in which they must eventually be losers, in which those will suffer most who least deserve to suffer. The laws of most European States recognize the propriety of curbing a prodigal. Our English law in its earlier stages postponed creditors to a family's right to maintenance and guarded the real estate against liability for personal debts. The Hindu Law distinctly approves the principle of interdiction (see Westand Buhler's Hindu Law, pages 194, 639) when the father is squandering the family estate. Such a proceeding by a father is by many Hindu authorities deemed a proof of madness. If the principle were accepted into the law of British India and practically worked out somewhat after the French law in similar cases, many

a property, large and small, would be saved from dissipation. According to the French system the interdiction for imbecile prodigality may be made retrospective. It may be limited in operation. It is possible that working upon these lines the Legislature might find a more effectual and becoming check upon the impositions of creditors than in the demoralizing devices of the Deccan Agriculturists' Relief Act.

2. A principle of the Hindu Law already touched on would, as the working of the Deccan Agriculturists' Relief Act itself proves, be tolerably effective in preventing the dissipation of small properties. This is the prior and inalienable right of the family to maintenance out of the family estate. A legislative adoption of the principle would hold out a warning to every one dealing with a *pater familias* against reckless transactions affecting the patrimony.

On the same principle a limit might be set to the liability for the personal debts of an ancestor.

A registration of family interests in a property might be allowed while it was still free, which would guard those interests against subsequent improvident alienation.

According to the Homestead Law of the United States a property connected with a residence (a familiar idea in India) may up to a value of 1,000 dollars or more be secured by the owner against execution or alienation during his own life, his wife's, and until his children have attained their majority. A son may of course renew the protection, which can be broken only by the owner through an elaborate special process. Under this law a property sufficient for the support of a family may be placed beyond the risk of dissipations by accident or improvidence. It might be imitated in India with general approval in one or other of the several forms which it has taken in "the States" and in Canada.

3. In Germany many endeavours have been made in various senses to prevent the severance of the peasant class from their properties. Some of these measures have had a much wider scope, but the immobility they aimed at has been but partially achieved. Thus in Saxony a law of 1843 forbade the alienation or incumbrance of more than one-third of an estate consisting of ordinary agricultural land. In several States, as, for instance, Nassau, a minimum area has been fixed by law below which alienation is prohibited. In others, as Bavaria, a minimum is determined by a fixed amount of land-tax payable. The German economists now seem to favour a minimum of net return as a means of determining the inalienable minimum below which sales shall not be valid, but the settling of this in any particular case is admitted to be a matter of great difficulty. In some States, as formerly in Wurtemburg and Saxony the alienation of the family estate was made subject, as it now is in Oudh, to the consent of the chief fiscal authorities. As a necessary complement of such laws the granting of leases was subjected to similar restrictions and these regulations have been imitated in Austrian legislation of quite recent date. If the principle of its being desirable to guard the peasantry against the consequences of its own improvidence and of keeping it in possession of the land be accepted, one or other of the devices to which I have referred may, after close scrutiny, be found worthy of adoption in India.

In Bavaria a law passed in 1855 enables a proprietor to make his estate indivisible and inalienable except with the consent of every person interested or by order of a Court on the application of the immediate proprietor. I many years ago argued for a law of limited entail and embodying the principle of the American Homestead Law as specially suitable to the present circumstances of India. The exaction of consent of all persons interested to the alienation of an estate thus tied up for the benefit of the family, would be a virtual revival *quoad hoc* of an ancient rule of the Hindu Law. The Scottish law affords an analogy in the protection it throws round alimentary provisions against incumbrances and claims of creditors.

4. Should a restriction on the power of alienation be accepted as in any circumstances admissible, it should of course be accompanied by corresponding limitations of the power of mortgaging. Otherwise sales would be made to the peasant's disadvantage under the disguise of mortgages just as mortgages dependent on the creditor's honour are now made in the shape of sales. Should an aliquot portion of an estate, or a minimum defined by area, or assessment, or net profits, be defined by law as inalienable and guarded against process, any mortgage affecting that portion should be limited to a short term of years, at the end of which by enjoyment or reception of profits the mortgage should be deemed extinguished. No greater sum would under this system be lent than would with its interest be discharged by the profits during the given term. Personal and transferred liability should in such cases be excluded, the land pledged being given and taken as the sole security for repayment.

This would be an application to the system of land-loans generally, of the principle followed by Government Land Banks and Credits Fonciers in the "amortization" of the debts due to them.

5. In presenting for consideration the different means which have been found more or less successful for preventing the extinction of peasant proprietorship in several countries, I would not be supposed to be blind to the evils which must attend the artificial preservation of any specially weak class in the community. But a guardianship during a time of transition and of economical education may be justified on grounds consistent with universal laws in a somewhat contrary sense. The want of stability and good sense in a man's father may in the man himself be replaced by good qualities derived from his mother; and society, upon the whole, may benefit not from a general regulation of men's affairs by the State but from a law against economical suicide. Should any measure based on the suggestions I have thrown out commend itself to the Government of India, I would venture to recommend that it should be reserved for extreme cases and should be given but a limited operation. When a district is found like Nasik in which freedom of alienation and incumbrance is manifestly being abused by the land-owners, then I would introduce one or more of the remedial measures which, judging from experience, would probably be found sufficient to prevent or greatly diminish the evil. The incidence of the restrictive law I would in each case confine to transactions of comparatively small amount, such as are commonly engaged in by the more ignorant and helpless members of society. In the larger dealings measured by thousands of rupees and embracing hundreds of acres in a single bargain, I do not think Government can interfere with any advantage. A system of limited entail and of alimentary provision guarded against improvidence would be beneficial for the higher classes, but would have to be defended on different grounds from those that would warrant the preservation of the peasantry.

6. If Government, however, in the interest of the peasantry, should be prepared to limit their perilous free agency in such ways as I have indicated, it might on a similar principle adopt a bolder and more effectual step. The Government's discretional share in the produce of the land, constituting really a part of the ownership has been subjected to measurement and in a great proportion handed over to the rayats. *Why? In order,* I suppose, to support a thriving and improving peasantry rather than to fasten bloodsuckers on the agriculturists, who appropriate all the growing gains of industrial development. There can hardly be a case of a sale or mortgage by a Bombay "occupant" of land, unless the money is borrowed for agricultural improvements which does not more or less defeat the purpose of Government in bestowing the status of a recognized proprietor upon him When the purpose is defeated, why should the sacrifice continue? A law, providing in all cases of alienation of lands under the Revenue Survey that on such alienation (including mortgage disapproved) the lands should forthwith become liable to re-assessment at the rack-rent, would effectually deprive speculators on the rayats' ignorance and poverty, of the interest they now have in grasping their lands. The evil of "land grabbing" has been a good deal exaggerated but it is an evil nevertheless. It could be met in the way indicated and appropriate provisions could be made in the law for allowing alienations, in particualr circumstances, of properties without re-assessment. In the case of large properties little or no restriction probably would be desirable.

7. Apart from the radical changes of the law by which the State might acquire and exercise a direct guardianship over the actions and the property of its subjects in the modes I have indicated, there are some modifications of the existing law which without any alteration of principle would, I think, confer appreciable benefits on the community. The Insolvency law, whether of the Civil Procedure Code or of the Deccan Agriculturists' Relief Act, is not sufficiently bold and comprehensive for Indian purposes. It should be competent to the Civil Court, whenever it is made to appear that a man is beyond reasonable hope of paying his debts, to declare him after due inquiry insolvent and then bring his pecuniary troubles to an end and restore him to society as an unfettered worker. When an entire change of circumstances can be shown, I think an order for payment by instalments should be competent to a Civil Court after decrees and without the assent of the creditor. This would in many cases obviate recourse to insolvency. A general limitation term of six years for ordinary debts without regard to registration would, in my opinion, be far preferable to the several varying from three to twelve years now operating as a bar to suits in such cases. These changes should be general; and the particular provisions of the Deccan Agriculturists' Relief Act should be repealed.

8. In cases of mortgage with possession but not of the character of an antichresis, much needless disputation and much helpless guessing would be prevented, if the parties were required to define in the instrument the precise sum for which the mortgagee was to be held answerable as annual profits. This specification is now made in some mortgages and it tends to clear away the confusion of thought in which illiterate men often act when pledging their property.

9. In my observations on section 14 of the Deccan Agriculturists' Relief Act I have advocated the adoption, as a general principle in Indian jurisprudence, of a discretional authority in the Civil Courts to revise and reduce rates of interest apparently exorbitant. There may be a doubt whether such a rule ought to be applied to transactions of large amount —say, of R1,000 or upwards—, but whether it was applied or not, would in such cases make but very little difference in practice. The parties to such transactions nearly always know how to take care of themselves. In the case of petty transactions an equitable power of revision, such as I have suggested, would be generally deemed a great reform, and in spite of some obvious objections, would, I believe, operate very beneficially. The principle might be worked out, as in several countries it has in fact been worked out, in various shapes. One of the simplest would be that all agreements for interest at more than 12 per cent. on personal security or greater than 9 per cent. on any pledge of property should be held *primâ facie* questionable and requiring a particular justification in the special circumstances of the transaction.

Page 78 of these observations.

10. In one large field of Equity Jurisprudence our Indian Courts have an invaluable guide in the Specific Relief Act, I of 1877. But the powers of the Courts equally or even more need defining and expanding in the field of Equitable Revision and Rescission. The Courts in this Presidency at any rate are quite prepared for such a widening of their jurisdiction, and it would be generally welcomed. Among the causes which the law should recognize as grounds for the exercise of the equitable jurisdiction to which I refer may be mentioned some which in my notes I have collected from actual decisions, and for the most part decisions of the Indian Courts, which only require to be brought together and reduced to a system in order to form a solid basis of precedent for all the requisite rules. Such are Oppression, Menace, Abuse of Authority, Confidence or Influence, Extortion, Advantage taken of Distress or Grievous Necessity, Fraud, Imposition, Surprise, Withholding Information, Miscalculation, Misconception of Fact or Law, Forfeitures, Penalties and Increases of Interest in cases of Default, Failure of a material part of the Consideration, Total change of the circumstances contemplated in contracting. In exercising the proposed jurisdiction a Court should have full power to scrutinize the circumstances in which any contract was made or any right resigned. It should be empowered to open an account closed on due cause appearing.

11. Were the powers of the Courts widened on the lines I have indicated, all would probably have been done that procedure ought to do to provide against those cases "where right too rigid hardens into wrong." The coercive provisions of the Civil Procedure Code have recently been mitigated to the utmost reasonable extent. I fall the circumstances on which a Judge can reasonably ground a modification of a bare and harsh obligation, are declared by the Legislature to be proper matters for juridical cognizance, no debtor or defendant can any longer be exposed, except by accident, to either moral injustice in the law's command or undue rigour in its execution. The true principles of amelioration in this sphere have an equal application to all classes of the community, to the weaver or car- penter just as to the agriculturist. If one account of special disabilities or imbecilities it is thought desirable to raise special safeguards round particular classes, these should be constituted by provisions of the substantive law. The property of the incapable children of the State should be held under protection like that of infants. In their transactions they should be subjected to tutelage. The enervating care should never be carried too far or maintained too long. It should never take the shape of encouragement to fraud falsehood and resistance to justtclaims.

Concluding Observations.

1. A general review of the operation of the Deccan Agriculturists' Relief Act in the light of the various experiences and opinions now placed before Government does not appear to favour an extension or even a continuance of this experiment in legislation. The rayats of the Deccan were relieved by the Act from a great burden of debt. They have been blessed ever since with favourable seasons, with partial exception in 1888. Their contributions to the

up-keep of the Courts and other expenses of Government have been reduced by some lakhs of rupees a year. There has been a great expansion of trade and industry. The diminishing area of waste-land has made the fields already occupied a property always increasing in value. In such circumstances a growth of prosperity amongst the peasant proprietors of the Deccan was virtually inevitable. Their condition has on the whole improved, though on what a frail foundation the amelioration rests was demonstrated by the results of the first approach of scarcity. If the Deccan districts be compared with the neighbouring tracts in which the special Act has not been in operation, the inference is strongly suggested that the former have gained less through the general development of the last ten years: and that they have been relatively inert and stagnant. The middle class has received a serious, if not a fatal blow, and it is the middle class which is the chief instrument in profitable transformations of industry. The terms of accommodation have been made harder than they would have been. Capitalists have been driven, either directly or indirectly, to supplant the small proprietors. Distrust has been shown between borrowers and lenders. Trickery and falsehood have been fostered. On the other hand, the ignorant agriculturists have been saved from some dangerous pitfalls. In place of these a new set has been prepared. The alienation of land is increasing. Litigation is increasing; and the Special Judge felicitates his readers, that it is disposed of virtually as if there were no Deccan Agriculturists' Relief Act.

2. I recently discussed the Deccan Agriculturists' Relief Act pretty fully with Mr. Chintamon Bhat, the experienced Assistant to the Special Judge. He expressed an opinion that the only distinctly beneficial provisions of the Act as compared with the ordinary law were two. He considers the power given by section 14, coupled with section 13, of reducting exorbitant interest as one that all Civil Courts ought to have and which is not abused by the Courts in the Deccan. He thinks also that the paying off of mortgages by instalment, the mortgagee meanwhile retaining his lien, as under sections 15B and 15C is a necessary mitigation of the hard terms imposed by strict law on the mortgagor. The former of these opinions agrees with the view I had independently formed on the subject and with that of the Subordinate Judges generally as reported by the District Judge of Satara (see page 142).

The latter may perhaps be thought to be satisfied by the terms of section 210 of the Code of Civil Procedure, but this is not clear. Uncertainty as to the time and terms of repayment must generally raise the rate of interest demanded on loans upon mortgages. It may be, therefore, that what would be felt as a mitigation in the individual case would be outweighed by the increased general burden. The general adoption of sections 15A and B of the Deccan Agriculturists' Relief Act would be inconsistent with sections 86 and 92 of Act IV of 1892. wherever the latter Act is in operation. In Bombay it has not as yet been adopted. At page 149 the District Judge of Satara points out how the Deccan Agriculturists' Relief Act facilitated the bringing of both just and unjust suits for redemption, and how under the old system the mortgagee was content never to realize his loan. At present in a multitude of cases the lender, having learned how to meet the exigencies of the Act takes a surrender or a transfer from the cultivator which can be used at will and then keeps the borrower on the land, living as a leasee on a starvation income, while all beyond goes to the lender as interest. The attornment of the rayat is enough for his creditor and he gets it renewed as often as necessary.

No. 56. *Minute by the Honourable Mr. Moore.*

The Deccan Agriculturists' Relief Bill was introduced upon the evidence adduced by the Deccan Riots Commission in 1875, to the effect that the districts of the Deccan, with an impoverished and ignorant population, were suffiering from our having imported into them laws and institutions suited only to an advanced and educated community; and it was, therefore, found necessary to introduce, for the benefit of the people, some simpler form, for the adjustment of their numerous disputes, by the establishment of Special Courts, by an increase in the number of Judges, and by the substitution of less complex rules and laws of procedure in the settlement of difficulties, for which the law, then in existence, was unsuited and inadequate.

2. But, it was not only the report of the Deccan Riots Commission that led to the passing of the Relief Act. The subject had been continuously before the Local Government since 1843-44. His Excellency the Viceroy, in a speech, during the debate on the Bill, said :—

"The distressed condition of the peasantry, in many parts of the Deccan, is a matter which has been long, perhaps too long, under the anxious consideration of the Government of India. It has been the subject of profuse

correspondence and protracted inquiry, and, from all the correspondence and inquiry, we were led to one very clear, definite and settled conclusion. That conclusion was that the case we have to deal with, here, is a *special case*, absolutely requiring *special legislation*."

3. The Act became law on the 27th October 1879, and a Special Judge, with special machinery, was appointed to superintend its working.

4. In a Despatch, dated the 26th January 1888, the Secretary of State sanctioned the continuance of the appointment of the Special Judge for one year, from the 4th January 1888, and added that, in the event of a further application being made for the renewal of the appointment, a special report should be furnished on the subject.

5. This request was reiterated in a further Despatch from the Secretary of State (24th January 1889) sanctioning a further extension of the appointment of Special Judge from the 4th January 1889; in that Despatch, the Secretary of State desired that *the special report should be submitted by June 1889.*

6. Mr. Woodburn was appointed, on the 21st June 1888, to make a special inquiry into the working of the Act, and his report was submitted on the 27th April 1889, and it was sent to the Honourable Sir R. West, who, in an able and learned minute, clearly and closely criticized the legal points and the figures contained in Mr. Woodburn's excellent report. It is not my intention to follow his lead, because I do not, in this particular matter, care to rely upon figures so much as upon practical experience gained by personal observation, and, also because, in my opinion, the Honourable Member has criticized, in detail, the tests applied by Mr. Woodburn, without attacking the main strength of that officer's position, which lies in the cumulative force of several tests, all pointing to one conclusion.

7. Most of the judicial officers, whose opinions are recorded, are unfavourable to the continuance of the Act, and, consequently, to its extension. This is only what was to be expected, as they, naturally (I write this with all due deference), regard the matter from a strictly judicial point of view, and prefer the provisions of the Civil Procedure Code to the more lax and exceptional procedure of the Deccan Agriculturists' Relief Act. At the same time there are provisions of the Act, *i.e.*, Section 7, Section 15 (*b*) and (*c*), Section 20, and "some simple and practical application of the system of conciliation," which an able and experienced Judge, like Mr. Crowe (letter No. 3009, dated 21st November 1888) considers should be incorporated into the Civil Procedure Code; and the Honourable Sir R. West in Part IV of his minute, paragraph 9, would extend, generally, the principle embodied in Section 14; admits the benefit of the *damdupat* rule of Section 13—hardly objects to the principle of Section 21, and would extend the period of limitation to 6 years, as laid down in Section 72, and, so far, endorses many of the special provisions of the Act.

8. I shall, therefore, content myself by making a few general observations, resulting from my experience of the working of the Act, and with nothing certain portions of the Report of the Special Officer, which confirm the views which I have formed.

9. In the first place, I would remark that I watched the operation of the Act in Poona for some years, as Collector of that district, and for a shorter period, in Poona, Nagar, Satara and Sholapur, as Commissioner, Central Division, and the following are the results of my observations :—

(1) There has been a considerable diminution in the indebtedness of the agricultural classes.

(2) Bad credit has been broken.

(3) The middlemen, who lent money on borrowed capital, for which they paid compound interest, and who, consequently, squeezed and sucked the life blood of the wretched cultivators, have almost ceased to exist.

(4) The wealthy money-lenders flourish still, do business on sound banking principles with men of good credit, and are on the best possible terms with them.

(5) Men with good security at their back, and with whom the sawkars think their money is safe, are able to borrow as freely as before

(6) Expenditure on marriages and other ceremonies has decreased among cultivators with little or no credit, and, instead of borrowing, as before, large sums for these purposes, they now get much smaller sums advanced, in return for bodily labour, for a comparatively short term, and they, thus, keep themselves out of the books of the money-lenders, and avoid accumulating interest.

(7) The provisions of the Act are acceptable to the general body of cultivators, as I have discovered for myself by conversation with them in their villages and fields.

(8) The cultivators, who, at first, felt inconvenienced, by being unable to borrow as recklessly as before, are beginning to adapt themselves to the situation, and are being more careful as regards their expenditure, and I should be very sorry to see the door to extravagance opened to them once more.

(9) The revenue is paid regularly and with comparative ease without recourse to the money-lender.

(10) The cultivators are, on the whole, contented and happy, and they do not part with their land to such an extent as before.

10. *I would observe regarding—

Point 3.—That if the Act has done no more good than this, it ought to be continued in force to prevent those Harpies, the middlemen, from ruining the ryots.

Point 6.—This is a most important point, and one for which Government has been striving for years, to prevent reckless expenditure on feasts and ceremonies, by people who have no money of their own, and who plunged themselves inextricably into debt in order to celebrate a marriage or a funeral. It was supposed that this could only be done by the upper classes setting a good example, but the Act has stepped in, and begun the good work among the poorer classes of cultivators, and has thus inaugurated a most desirable reform.

Point 9.—It may be said that the ease with which revenue demands are met is the result of a series of favourable seasons. We have, certainly, had no famine during the last 10 years, and the sessions have on the whole, been good, but the rainfall in some years, during the last decade, has, in parts of Nagar and Khandesh, been fitful and precarious, and has given considerable cause for anxiety, and, yet, the revenue has been collected without recourse to compulsory measures. But, it may be asked, what would these poorer classes of cultivators do in a year of famine and scarcity without the aid of the money-lenders? The answer is simple. Government would step in. Projects for relief works have been prepared for all parts of the Deccan, and on the first alarm of scarcity they can be thrown open to cultivators who will thus earn a living as labourers. When the the last famine occurred we were unprepared, and the people suffered before we could organize works, and many of them had recourse to loans. Now that necessity no longer exists. The revenue demands, moreover, would either be postponed, or, if the scarcity were general, they would be remitted; and afterwards the cultivators would receive advances from Government for seen and bullocks, so that there need be no necessity for the intervention of the money-lender.

11. I would now observe that Mr. Woodburn comfirms my—

Point 1, at page 80 of his report,

Point 4, at page 4 of his report,

Point 3, at page 19 of his report, in which he says that the money-lending business of money-elnders suffered in the 4 Deccan Agriculturists' Relief Act districts from the introduction of the Act—he writes generally—I allude particularly to the "middlemen,"

Point 8, at page 80 of his report,

Point 9, at page 81 of his report,

Point 10, at page 81 of his report,

* The Honourable Mr. Rivers Thompson in his speech on the Bill said (speaking of money-lenders) "Vast numbers of them, I hope I may say the majority of them, are honest and honourable men, but it is impossible to ignore the vast amount of evidence in proof that there are, still, very many of them who deserve a different character, and that this section of the money-lending class is so numerous, that it has become absolutely necessary to give to the debtor some better protection against it than is now available."

and his report, generally, bears out, I think, all the points. And I would here remark that when Government appoint an officer of reputation and experience to examine a subject, considerable weight should be given to his views and conclusions, arrived at after careful personal enquiry, and supported by the experience of other district officers.

12. I have waded through the administration reports for the four districts in which the Act has been working,—that is to say, through as many reports as have been sent to me from the Secretariat, and I quote from them the following extracts, containing remark on the working of the Act by district officers :—

1883.

Mr. Moore, Collector of Poona :—

"I think the poorer classes are becoming more reconciled to their 'broken credit' state. It is too soon of course to see any marked change; but symptoms of a change are not wanting. Reckless borrowing is stopped. The poorer cultivators cannot now borrow at all without security and the only security, they can offer is their land, with which they are unwilling to part—so, they manage to eke out a livelihood by the sweat of their brow without borrowing."

Mr. Winter, Assistant Collector, Poona :—

"That they are in debt is a consequence of their immemorial relations with the monied class; but the Relief Act, though by its interference with capital it has tended to impoverish the latter, has, to some extent, fulfilled its remedial purpose."

1885.

Mr. King, Collector of Satara :—

"The extent to which the cultivators availed themselves of these advances (Takavi) is very insignificant when compared with the allotment sanctioned. I think there is good ground for believing that this is partly due to the ryots being actually in easier circumstances, owing to the Deccan Agriculturists' Relief Act."

Mr. Deshmukh, District Deputy Collector, Satara :—

"The Deccan Agriculturists' Relief Act has already done much good to the agricultural classes, but it remains to be seen how it will work in a year of scarcity."

Mr. Rand, Assistant Collector, Satara :—

"It has enabled a large number of ryots to clear themselves from their obligations, and it is, doubtless, one of the causes why the land revenue was so easily realized. He adds that the money lending class has been injuriously affected by the Act and that it remains to be seen how it will work in a year of scarcity."

Mr. B. G. Sathe, District Deputy Collector, Satara :—

"The Deccan Agriculturists' Relief Act has been doing good."

Mr. Snow, Assistant Collector, Poona :—

"There seems little to urge against the Act, and so long as good seasons continue, its action will, upon the whole be beneficial, but it remains to be seen what its effect will be in a year of scarcity.

Mr. Winchester, Acting Collector, Nagar :—

"The Marwaris continue to protest that they are ruined by the Relief Act, but they continue to abide in the land, and to get their living out of it."

Mr. Mule, District Deputy Collector, Nagar :—

"On the whole, the operation of the law has done immense good to the poor ryots."

Remarks by Government on the Satara Administration Report, 1884-85 :—

"There is a consensus of opinion among the officers, whose reports are under review, that the cultivators have benefited, and the money-lenders have suffered, from the operation of the Act. The latter result cannot be said to be contrary to the intention of the Act, which is to prevent money-lenders from exacting from agriculturists a higher profit than is legitimate."

1886.

Mr. Dodson, Assistant Collector, Satara :—

"This Act is popular with the ryots, and undoubtedly tends to afford them considerable relief from the exactions of money-lenders; it, however, causes great loss to the sawkars, many of whom have almost been ruined by it. The Act is indirectly tending to cause the accumulation of land in the hands of a small number of people possessed of considerable means." And further on he says :—

"In this way the Act is certainly of advantage, as it takes the land out of the hands of men who are utterly destitute of capital, and quite unable to effect any improvements on the land, and places it in the possession of men of large means and generally of an enterprising spirit, who are ready to spend capital in draining and otherwise improving the property."

Mr. Deshmukh, District Deputy Collector, Satara :—

"It has done considerable good to the agricultural classes. The fears entertained at its introduction are entertained no longer. The ryots are deeply grateful for the measure. It is always referred to by them as a

proof of the benevolent intentions of Government towards them; but the sawkar is mortified, and feels himself in the position of a disarmed warrior."

Mr. East, Collector, Poona :—

Owing to the favourable season of last year the credit of the ryots with sawkars has been gradually rising. The prejudices which sawkars entertained, during past years, against the Act have been gradually lessened, and they seem to make advances more freely to agriculturists."

Mr. Morison, Assistant Collector, Poona :—

"The Act has had a beneficial effect on the ryot in two ways. Firstly by compelling the sawkar to keep accounts, it has, to a great extent, prevented deception on the ryot, and secondly, by necessitating the sawkar to look for good security, it has a tendency to foster habits of thrift in the ryots."

Mr. Loch, Collector, Sholapur :—

"I think the kunbi has profited by the lessons of the famine, assisted, as it has been, by the Agriculturists' Relief Act."

Mr. Winchester, Assitant Collector, Nagar :—

"The Marwaris make the same complaint as they did last year against the operation of the Relief Act, and the cultivators, sometimes, complain of the difficulty they find in borrowing money."

Mr. Harvey, Assistant Collector, Nagar :—

"The working of the Act is, on the whole, satisfactory, and a large number of ryats have taken the benefit of it during the present year."

Mr. Mule, District Deputy Collector, Nagar :—

"The Relief Act is doing good to the ryots: their condition is improving gradually."

Mr. Waddington, Collector of Nagar :—

"The relations between the cultivators and the money-lenders are now anything but cordial, and the rayat feels great difficulty in raising a loan if required."

1887.

Mr. Waddington, Collector of Nagar :—

"I have no reason to think that the difficulty experienced by the rayat in raising loans, alluded to in my last report, has in any way decreased."

Mr. Maconochie, Assistant Collector, Nagar :—

"The reports I receive go to show that the Relief Act has resulted in a certain amelioration of the cultivators, although not quite such an improvement as was, at one time, expected."

Mr. Mule, District Deputy Collector, Nagar :—

"The operation of the Deccan Agriculturists' Relief Act has been very satisfactory, as regards the interest of the poor ryot."

Mr. Crawford, Commissioner, C. D. :—

"The position of the agriculturist has, clearly, been improved by the Relief Act, and this accounts for the small Takavi advanced during the year."

Mr. Symonds, Assistant Collector, Poona :—

"The Deccan Agriculturists' Relief Act has had, on the whole, a beneficial effect, by making it more difficult for an improvident rayat to borrow money; but, on the other hand, an increasing area of land is passing into the virtual ownership of money-lenders, by means of mortgages with possession."

Mr. Allen, Collector of Sholapur :—

"It is just possible that the Deccan Agriculturists' Relief Act has a good deal to do with the satisfactory condition noted."

Mr. Wadekar, District Deputy Collector, Nagar :—

"The Deccan Agriculturists' Relief Act has lightened the burden of their debts, which, before the introduction of the Act, were hopelessly large; it has also restored to the ryots their lands, which had passed into the possession of their creditors. It has enable them to enjoy the fruit of their labors."

Mr. Deshmukh, District Deputy Collector, Satara :—

"The influence of the Deccan Agriculturists' Relief Act, in improving the condition of the people by decreasing their indebtedness, is very appreciable, and the measure is understood by them to be beneficial."

1888.

Mr. Waddington, Collector of Ahmednagar :—

"The rayat will in case of emergency find himself in difficulties, as the sawkars will not advance monies as they used to do."

Mr. Bonus, Assistant Collector, Nagar :—

"The Deccan Agriculturists' Relief Act appears to be having a very unsatisfactory effect; it has so injured the credit of the rayats, that sawkars will not lend them money, unless the borrowers execute deeds selling the occupancy rights of their fields outright to the sawkars," and then he adds :—

"On the other hand, the rayats' security is so bad that they are no longer able to borrow large sums of money to waste upon extravagant marriage ceremonies, and are thus compelled to be thrifty."

Mr. Wadekar, District Deputy Collector, Nagar :—

"A disinclination on the part of rayats to apply for advances is always manifested. This disinclination is, partly, ascribed to their improved condition since the introduction of the Agriculturists' Relief Act."

Mr. Moore, Commissioner, C. D. :—

"Mr. Waddington has hitherto held the opinion (*vide* his remarks on the working of the Deccan Agriculturists' Relief Act in his three previous administration reports) that the rayat, in case of emergency, will find himself in difficulties, as the sawkars will not advance money as they used to do; but the remarks made by him in his present report, in connection with this subject, show that he is now convinced that such is not the result produced by the working of the Act. He believes that the rayats must have paid the revenue by borrowing from the sawkars."

Mr. Heblikar, District Deputy Collector :—

"The provisions of the Deccan Agriculturists' Relief Act have already greatly lightened the burden of the agriculturists' debts, and placed them in the enjoyment of lands which had long passed out of their possession. No doubt the rayats' credit has proportionately decreased, and they now find it hard to raise loans with the same facility as before; but this has naturally infused into them the wholesome habits of thrift and economy, an every endeavour is made to avoid the necessity of borrowing."

Mr. Allen, Collector of Sholapur :—

"As far as my personal inquiries have gone, it (the Act) has benefited the rayats."

Mr. Logan, Assistant Collector, Poona :—

"The effects of the Deccan Agriculturists' Relief Act are generally considered to have been beneficial. In one taluka four Marwaris are said to have packed up their belongings and returned to their own country, which is a matter for congratulation. It is considered by some, however, that the effects of the Act, while improving the material condition of the people, have had the opposite effect morally."

Mr. Snow, Assistant Collector, Satara :—

"The Deccan Agriculturists' Relief Act has conferred great advantages on the district, and, in spite of grumbling, its utility is generally recognized."

Mr. Deshmukh, District Deputy Collector, Satara :—

"The balance of opinion is most decidedly in favour of the beneficial tendency of the Act. Those best acquainted with the condition of the agricultural classes are of opinion, that, after five or six years more, their condition will be so generally improved, that Government might, at the end of that period, well suspend the operation of the Act."

1889.

Mr. Waddington, Collector of Nagar :—

"It is the general belief that the rayats have, now, some difficulty in getting loans from the sawkars, but this is hardly borne out by the remarks just made, as, the crops having failed so largely, the rayats must have fallen back on borrowing."

Mr. R. B. Stewart, Assistant Collector, Nagar, reports unfavourably, in a general way, of the working of the Act, but he only held his charge for two months, and could not properly know much about the subject.

Mr. Bonus, Assistant Collector, Nagar :—

"As might have been expected from the working of the Relief Act, the rayats have been unable to borrow from the sawkars to any extent, but the fact, that the collections of revenue have not seriously diminished shows that the people cannot be so badly off as they would have one to believe."

Mr. Wadekar, District Deputy Collector, Nagar :—

"The comparative easy circumstances of rayats in these talukas are chiefly ascribed to the benefits which the Agriculturists' Act confers on them."

Mr. Logan, Assistant Collector, Sholapur :—

"Their credit does not seem to have been, appreciably, injured by the operation of the Relief Act, and this is itself, perhaps, evidence of their material prosperity."

Mr. Woodward, Assistant Collector, Nagar :—

"This is a significant sign among others, that the cultivators have resources which are not suspected, and that they have, probably, gained them by the operation of the Deccan Agriculturists' Relief Act."

Mr. Lee-Warner, Assistant Collector, Satara, writing in 1883 states:—

"I have already referred to the fact, borne out by my own inquiries, that the sawkars have not abandoned their old haunts, and, so far as my experience goes, I cannot believe that the trade of respectable money-lenders has been injured, much less destroyed, by the Act"—and

"I am convinced that the Deccan Agriculturists' Relief Act is regarded by the rayats (in Satara) as the very charter of their rights."

Further on, in alluding to the manner in which the rayats of the Khatav Taluka paid up their revenue, in spite of a succession of bad seasons, he wrote:—

"I made inquiries into the source whence these payments had been made, and I found' that the better class of tenants had borrowed, and the poorer classes had sold their produce direct, had taken labour, and, by one means or another, raised the necessary amount. Again

"It is little short of a revolution that the Deccan peasantry have been taught to feel their own legs, to take their own produce to the market, and to pay their revenue, not out of further loans, but out of the sale-proceeds of their crops." And

"To sum up, I believe I am justified, by the evidence before me, and by my own experience, in holding that the following results are due to the Deccan Relief Act. The mass of the rural population have greater confidence in our Law Courts; they were never so contented with their position as at present; they have recovered from the effects of an unprecedented famine with unprecedented rapidity; they have increased cultivation, and meet their instalments with regularity; they can borrow, if they have credit, as easily as ever; and the margin of those with credit is steadily increasing." Again

"A great social revolution is peacefully working itself out, the ryots are trying to shake off the constant intervention of the money-lender, they take their own produce to market, they are trying to help each other, while the money-lenders are holding aloof to watch events."

13. But besides the testimony of these district officers, the correspondence shows that the first Special Judge (Dr. Pollen) was in favour of extending the Act to Bijapur, Nasik and Khandesh; that Mr. Fulton, for whose opinion I have the highest respect, writes:—

"Sections 12 to 18 of the Deccan Relief Act appear effective so far as agriculturists are concerned, and I think that they should be applied to the whole Presidency, including Sind."

And the late Honourable Sir M. Melvill, although averse, at first, to the extension of the Act, appears to have become converted to the opposite view. On the 12th August 1885 the late honourable member (Sir M. Melvill) wrote:—

"At present, however, it is not likely that Government will extend the Act, or any part of it, to other districts – the officers consulted do not generally advocate it."

On the 2nd April 1886 Sir M. Melvill wrote:—

"At present it is sufficient to say that, if the section enabling the Act to be extended to other districts be introduced into the Act, it will certainly not be allowed to remain a dead letter."

14. Later on, at the suggestion of Sir M. Melvil, concurred in by His Excellency the Governor, the Government of India were informed—

"If, therefore, Section 3 of the Draft Bill accompanying your letter becomes law, this Government would at present be prepared to recommend the extension of the Act to Khandesh only."

And the reason why this recommendation was restricted to that one district was that—

"His Excellency the Governor in Council has, to some extent, been influenced by the fact that it is necessary to consider seriously the question of expense, especially at the present time, when this Government is threatened with a reduction of the Provincial Contract grants."

15. In 1887 the Honourable Sir J. B. Peile minuted:—

"I have always been in favour of extending some of the provisions of the Act, if the financial difficulty is not insuperable."

"The Deccan Act has succeeded better than was expected, and the dangers anticipated from it have not occurred. It has, also, been improved by amendments, and, perhaps, may be still further improved;" and and further on in the same minute:—

"I am, therefore, strongly in favour of a wide extension of a modified Act, securing accessible and cheap courts, the ascertainment of debt due by going behind the bonds, arbitration, payment by instalments, the discouragement of mortgages with possession, and cheap registration. But the question is whether we can afford the cost."

16. The Honourable Mr. Richey in 1889 wrote:—

"The Deccan Agriculturists Relief Act has to be considered from the point of view of the Revenue and Financial Departments as well as of the Judicial; we have to see (1) how it affects the condition of the people, (2) what it costs, as well as (3) to judge of it as a system of procedure, and the first of these aspects is the most important."

"I do not regard the Act as, in itself, anomalous, or as a measure of paternal protection, as the Honourable Mr. West regards it. I regard it, merely, as a law of civil procedure, alternative to that in force in other

regulation districts. I assume that it was shown by the Deccan Riots Commission that the ordinary law was unsuited to an utterly illiterate and improvident peasantry, hampered with ancestral debt, possessed of property which had attraction for the money-lender, and conducting all its dealings, whether in its goods or in money, by means of written contracts," and

"In respect of the 6 provisions of the Deccan Agriculturists' Relief Act enumerated in Government Resolution No. 395, dated the 15th January 1885, I am satisfied that that Act is better adapted to the bulk of our agricultural population; that is to say, the presumption in favour of their salutary operation is so strong, that it would need clear proof to rebut it: all the evidence we have, however, confirms the presumption," and

1. Provision against *ex-parte* decrees
2. " for going behind the bond.
3. " in regard to suits for redemption and suits for account.
4. " in regard to payment by instalments.
5. " in regard to abolition of imprisonment for debt.
6. " in regard to abolition of the sale of immoveable property except when specifically mortgaged.

"From paragraph 10 of the Secretary of State's despatch, dated the 6th November 1884, it may be gathered that we should find a difficulty in getting sanction to legislation by which the principles of the Act would be re-opened. It would seem, therefore, that, practically, we have to choose between the present law and the provisions of the Deccan Agriculturists' Relief Act for new districts."

17. I ought not to omit to mention, here, the fact that the Act is much appreciated by Native States. Some of them have introduced it, and applications for its introduction elsewhere have been received.

18. I have quoted above extracts from the views expressed by Mr. Lee-Warner in 1883, but I should like to see an expression of his opinion, on the subject, up to a later date, as his experience, as a Collector, of the working of the Act would be most useful at this juncture.

19. With regard to the Secretary's note, and the red ink headings, I would observe, in reference to—

1. That the delay should be explained from the Secretariat record, and that the special report should be submitted at once.
2. That I am in favour of a general extension of the Act, but that I am willing to leave the details, regarding its extension, to be determined on a consideration of the local requirements of each district, and after taking the opinions of the legal advisers of Government as to the parts of the Act to be continued—for it may not be necessary to apply the same provisions of the Act to all places, nor may it be necessary to extend whole chapters, when, perhaps, the application on one or two sections only would suffice.
3. I consider it unnecessary to answer the 13 questions; they were put by this Government to the Judges, who, as a rule, as far as I can gather, have, in a general way, condemned the procedure of the Act; but, as I am of opinion that it has beneficially affected the condition of the people, which, as the Honourable Mr. Richey has observed, is the most important aspect, I am strongly in favour of its continuance and extension.

20. If the Act is to be extended as I recommend, I would maintain the Special Judge to superintend its introduction into and to watch its working in the new districts, and I presume that an increase of establishment will be necessary.

J. G. MOORE.

14th May 1890.

Minute by His Excellency the Governor.

It is most regrettable that my predecessor and Mr. Richey should have vacated office without recording their final opinions on the various points that have been raised by the terms of reference to Mr. Woodburn. No. 57.

We are now in this position. The Secretary of State is pressing us for such observations as we may wish to make in support of the continuance of the Special Agency. On the other hand, the Government of India desire "a full and well considered statement of the views of the Governor in Council," if the abolition of the Special Agency is still recommended.

Both the Secretary of State and the Government of India are pressing for the report of Mr. Woodburn.

The Honourable Sir Raymond West's minute was printed in November 1889; and it appears to me that between then and 12th April there was sufficient time for the Government of my predecessor to have formed their final opinions upon a report, resulting from terms of reference to a special officer whom the Government in question had appointed.

It devolves upon the present Government to explain the somewhat conflicting recommendations of the Bombay Government as to the continuance of the Special Agency.

We have also to give our opinion as to the wisdom of continuing the Act or parts of it in the four districts, and of extending it or parts of it to other districts.

* See paragraph 2, letter 5690 of 1888 to Government of India.

It appears to me that it will be impossible to put the *pros* and *cons* of this voluminous correspondence in the form of a despatch, and that it will be necessary to forward the report and appendices and the various minutes upon it in printed form, to the Secretary of State through the Government of India with a covering letter summarizing our conclusions.

It is no bad compliment to the statistical form that Mr. Woodburn has adopted for the purposes of report to say that I see no necessity for analysing his statistics. He deserves every credit for the elaborately worked out information he has provided Government with, but in my opinion as clear information is to be got from the general impression of the officers, serving in the districts in question, as to the effect of the Act, as can be derived from minute statistics.

Mr. Woodburn obtained certain results from his figures, the Honourable Sir Raymond West challenges his findings in some instances, and in other points to qualifying circumstances, for which in his opinion Mr. Woodburn has not made due allowance.

But as a matter of fact it is surely unnecessary to analyse statistical evidence for the purpose of proving or disproving that in the four districts where the Act has been in operation, the agriculturists are better off than they were before the Act took effect.

Common sense will tell one that if a number of persons who are more or less in debt at a certain date are subsequently released from more or less of their debts at the expense of the few persons who had advanced the loans, the former will be much better off than when the whole incubus of the original debt weighed them down.

The agriculturists in the four districts were, when the Deccan Agriculturists' Relief Act passed heavily in debt, the effect of the Civil Procedure Code had been to give the creditors greater advantages over the debtors than they had had before its passing. The Deccan Agriculturists' Relief Act gave such a balance of advantage to the cultivators that they were able to get rid of a considerable load of debt. Under such circumstances it does not require statistics to prove that the agriculturists' condition will show signs of marked improvement over what it was before the passing of the Relief Act.

Neither is it necessary for me to enquire into the necessity of introducing a measure of this character. The case was said by His Excellency the Viceroy when the Bill passed to be a "special one requiring special legislation."

The first question then that presents itself to me is, should this special legislation be continued in the districts to which only it at present applies?

I can see no reason why the agriculturists in these districts should be deprived of the benefits of the Act. Arguing on the lines of general experience, I should imagine that the money-lenders in the four districts have by this time taken very good care that for their loans they get sufficient security. It is evident from the reports of officers in the districts that a large number of lenders have disappeared. It is in my opinion absolutely certain that the remainder have taken care or are taking care to secure themselves against the fate of their brothers in trade.

Whether the agriculturist will benefit by this tightening up of the lender's purse-strings remains to be seen when the time of trial comes. Up till now everything has been in favour of the agriculturist. The famine reduced the population, there has consequently been more land for the remainder to cultivate, that is, more food for the remainder to eat or to export as suited them best.

The agriculturists are considered by many officers to show more self-reliance, they take their produce to market themselves and avoid one middleman at least; their style of living shows an improvement; and they recognize that the Act has conferred great benefits upon them.

But to suppose that farmers as a class do not require to borrow for the purpose of carrying on their trade is a fallacy. They are running a continual hazard against nature, and if their forecast is wrong, they must borrow or lose the favours which nature does give them, although their forecast of their particular kind of favour may have been wrong. For instance,

* Not printed in the Selections.

a perfectly solvent English farmer may calculate on a dry summer and spend his working capital so as best to meet that calculation: the weather changes and he knows that he will have a heavy growth of grass to feed off or hay to cut. He calculates that labour will be difficult to get and that it will be wiser to buy stock: but his superfluous cash has been spent to meet his first and erroneous calculation: and he is compelled to borrow or run the risk of losing the favour nature does eventually bestow on him. The particular example may not be applicable to India, but '*mutatis mutandis*' I imagine that farmers as a class all the world over must borrow to carry on their trade.

If therefore a time of trial does come, it remains to be seen whether the inevitable natural operation of an Act, which has struck a heavy blow at money-lenders, will eventually conduce to the advantage of the farming class.

The special circumstances requiring special legislation have passed away, but the parties affected by it have during the years of its working become accustomed to it, and have, I conceive, taken good care to protect themselves against loss, possible under its provisions, and I therefore see no reason for repealing such parts of it as are generally recognized as useful and beneficial.

The next question that presents itself to me is, shall the Act or such parts of it as are preserved in the four districts be extended elsewhere: if so, where?

As an Act to relieve agriculturists I think not.

The Act was special and to meet special circumstances.

If similar circumstances exhibit themselves or even threaten an approach elsewhere, there would then be a justification for its extension, but except under such special circumstances I think there is none for disturbing the normal arrangements of trade, or hampering freedom of contract.

Under the terms of reference to Mr. Woodburn it was evidently a question for future consideration whether or not the Act should be extended to five other districts—Khandesh, Nasik, Thana, Bijapur and Ratnagiri: and the opinion of the Revenue officers may be summarized thus:—

Bijapur.

The majority are in favour of the introduction of parts of the Act generally, *i.e.*, I presume, that it should apply to all trades and all classes.

No indication is given that special circumstances exist requiring special legislation. I am therefore opposed to the introduction of the Act *quá* agriculturists into this district.

Khandesh.

Mr. Loch in paragraphs 2 and 3 of his report gives a very decided opinion that special circumstances requiring special legislation do not exist. I am therefore opposed to the introduction of the Act *quá* agriculturists in this district.

Nasik.

Tables are produced by the Assistant Collector intended to show the indebtedness of cultivators. The first shows that 34 per cent. are insolvent.

The following tables are not worked out in the same form and it is impossible to arrive at the percentage of insolvency in the other villages selected as examples. The Assistant Collector is however convinced of the generally indebted state of the agriculturists in this district.

If 34 per cent. of the cultivators in the district are practically bankrupt, the condition of things is bad, and borders on that which requires special legislation. The character of the district should however be considered; about one-half only is liable to famine, and I should suppose that in the other half the need for special legislation is quite open to doubt.

The question remains whether it would be justifiable to introduce special legislation throughout a district, if the special circumstances do not exist in one-half of it.

The opinion of the Revenue officers is so unanimously in favour of the extension of the Act to Nasik that I cannot object, whilst at the same time I regret that such legislation should run where there is no risk of famine.

Thana and Ratnagiri.

The Collectors do not send reports; but neither district is liable to famine and I do not think it justifiable to extend the Act to them *quá* agriculturists.

A third question has to be dealt with, *viz.*, shall the Act continue to run in its present form, or are amendments possible? There appears to be a consensus of opinion in favour of dropping parts of it which have not proved useful: and I consider that the reports tend to show that—

1. The system of Conciliation has failed.
2. Village Registration has failed.
3. The Village Munsiffs have failed, but the experiment warrants a trial of giving limited powers to Subordinate Judges' Head Clerks.
4. The term of limitation might be made general at six years.

Finally a much larger question cannot be excluded from consideration. Are there parts of this Act which might well be introduced generally and not for a particular class?

It appears to be admitted that the Act was in advance of its time and that since its introduction amendments to the advantage of the debtor have been made in the Civil Penal Code, and it may well be that the time has arrived when the law as regards the general public should in some degree be more assimilated to what it is for the agriculturist in the four districts.

Certainly as regards *ex-parte* decisions. Also as regards the power of ordering payment of the debt by instalments.

The Honourable Sir Raymond West considers that the insolvency law is not sufficiently bold for Indian purposes, and that it should be competent for the Civil Court to declare a man bankrupt (I presume), whether his creditors wish to make him bankrupt or not.

I am not inclined to go with an opinion which I am aware is not confined to India and make people bankrupt against their and their creditors' wills. The majority of mankind looks upon Bankruptcy as a disgrace, and so long as importunity and persuation have power, most debtors manage to avoid a declaration of insolvency. I am disinclined to interfere to any greater extent with the debtor than the law does now, and if the creditors do not wish to make him bankrupt I think it unnecessary for Government to make him so. The question, however, of the greatest importance is whether the power of looking into the merits of a case of debt, *i.e.*, of going behind the bond, and of reducing what to the Court appears exorbitant interest, shall be made applicable generally. It is a question which should really be decided by a higher tribunal than the Government of Bombay; for I am distinctly of opinion that if undesirable for India in general, there are no local circumstances which make such an interference with freedom of contract desirable for this Presidency.

If the only class in India capable of looking after their own interests is that which lends and all borrowers are so childish as to require the aid of the law to prevent their ruining themselves, then it is doubtless the duty of the State to step in and so legislate as to prevent those in need of loans from borrowing ruinously. But I am not inclined to think that human nature is so different in India to what it is in the rest of the world, and I believe that the large majority of borrowers are quite capable of looking after their own interests; certainly I should imagine that an active and enterprising mercantile community, such as is to be found in this Presidency, is not to likely acknowledge that it is more childish than other communities in India and that it specially needs being put in leading strings.

The laws of self-interest, and of political economy will inevitably tend to defeat legislation which aims at an interference with them. If the Courts are empowered to step in and reduce a rate of interest agreed on between the parties to the loan, it is inevitable that either lenders will insist on better security, or borrowers and lenders will mutually conspire to evade the law.

I am altogether opposed to interference with the freedom of the subject as regards his business, trade or profession unless special circumstances demand it: and I submit that there is not one shred of evidence before Government at this moment as regards any part of the Presidency, except the districts mentioned in the report, which warrants us in recommending such interference with trade as it would be to propose that the Courts should be empowered to go behind the bond and reduce the rate of interest. Even Portia did not try to go behind the bond. It may be objected that it is most undesirable that the law should differ in one part of a country from what it is in the rest: say for instance that in certain districts of the Deccan the Courts should be empowered to go behind the bond and not in the rest of the Presidency, and again as regards one trade and not as regards others. It is undoubtedly inconvenient but it is not a solitary instances of such differences in the general law of a country. Where nature has aserted her power, the laws of man have to be accommodated to the fact; and other instances beside the Deccan can be adduced without difficulty to prove that where famine or unkindly soil, deficient rainfall, or crop disease have prostrated trade, paralized energy and

decreased population, special legislation differing from that, which applies to the rest of the community, has had to be introduced to meet the special circumstances of the case.

I am unable to see that special circumstances exist in the case of the Presidency and I am therefore opposed to special legislation empowering the Courts to go behind the bond.

There remains the question of the continuance of the Special Judge. If the Act is extended to Nasik I presume it would be advantageous to retain the services of Mr. Ranade, until the work in the new district resumes its normal condition. I judge from the reports of the judicial officers to whom the question has been put that in the case of the four original districts there is no occasion for the continuance of the appointment.

My opinions on the several points dealt with above summarize thus—

1. The Act amended as regards several of its provisions should continue to run in the four districts.

2. In its amended form it should be applied to Nasik.

3. The amendments should be as regards—

a. Conciliation,

b. Village Registration,

c. Village Munsiffs; but an experiment might be made of giving limited powers to Subordinate Judges' Head Clerks.

d. The term of the limitation to be fixed at six years.

4. The provision of the Deccan Agriculturists' Relief Act as regards hearing the defendant might be made general; and also the power to order payment of the debt by instalments.

5. The power to go behind the bond should not be made general, and should only be put in force where special circumstances make such special legislation necessary.

6. The appointment of Special Judge is no longer necessary in the four districts, but would be if the Act is extended to Nasik.

HARRIS.

28th May 1890.

From—W. Lee-Warner, Esq., Secretary to the Government of Bombay, Judicial Department, to the Secretary to the Government of India, Home Department,—No. 5659, dated Bombay Castle, the 24th October 1891. **No. 58.**

I am directed to forward to you herewith, for consideration by the Government of India in connection with the proposals made in this Government letter No. 3356, dated the 25th June 1890, the accompanying copy of a letter* from the Sarvajanik Sahba, Poona, submitting a representation in regard to Mr. Woodburn's report on the working of the Deccan Agriculturists' Relief Act.

* No. 317, dated the 30th September 1891.

From—The Secretaries, Sarvajanik Sabha, Poona, to the Secretary to the Government of Bombay, Judicial Department,—No. 317, dated Poona, the 30th September 1891. **No. 59.**

We are directed by the Managing Committee of the Poona Sarvajanik Sabha to submit, for the favourable consideration of Government, the following representation in regard to Mr. Woodburn's report on the working of the Deccan Agriculturists' Relief Act, a copy of which Government was pleased to supply to the Sabha in July last.

2. When Government first appointed Mr. Woodburn as Special Officer for the purpose of inquiring into the results of the working of the Act in the four districts as compared with the condition of five other districts where the Act was not in force, the Committee of the Sabha entertained doubts as to how far inquiry by a single officer would prove satisfactory. At the Provincial Conferences held in 1888 and 1889 under the auspices of the Sabha, the question was discussed at some length, and it was resolved that Government should be requested to entrust the inquiry to a mixed Commission (copies* of those Resolutions are sent herewith). The report of such a Commission would naturally have carried more weight, and to some extent prevented the differences of views which on such a subject it is almost impossible to avoid between the District Executive Officers who, as Mr. Woodburn's report shows, are in favour of extending the Act to other Districts, and the District Judicial Officers who are generally less impressed with the benefits of the Act by reason of their being less in touch with

* Not printed in the Selections.

the people except in connection with the litigation which comes before them. Notwithstanding this difference of views the Committee of the Sabha are glad to notice that in the Special Officer's opinion the Deccan Agriculturists' Relief Act has on the whole proved beneficial to the agriculturists in the four districts where it is at present in operation, and they join with him in his recommendation that the Act might with advantage be extended to other classes than agriculturists and to other Districts. The Special Officer's report gives exhaustive statements about the economical effects of the Act in improving the condition of the agriculturists and in reducing their debts. His report is not, however, equally full in regard to the judicial working of the more important provisionsof the Act, but the Committee notice with satisfaction that the Special Officer approves of the policy which suggested the necessity of giving power to the Courts to reduce exhorbitant rates of interest to reasonable rates; to go behind the bond to examine the parties in all cases and see that no fraud or undue influence has been exercised, to allow instalments, and to remove undue pressure upon agriculturists by exempting immoveable property from liability to sale for money decrees.

3. The Committee, however, entirely differ from the Special Officer in regard to his views about the working of the conciliation system. The Special Officer admittedly does not appear to have carefully studied the working of this portion of the Act, and his suggestion that the conciliation system might be abolished, is not entitled to any weight. The Committee are fully persuaded that much of the good which the Act has on the whole done, is due to the system of conciliation provided by it. This system is popular as being, to some extent, a revival of an old and time-honoured Indian Institution, *viz.*, the Village Punchayat, and it is recognized as such by the people in the four Districts where the Act is in operation. The people of his country are not generally fond of litigation in Courts, and resort to it only when all other means fail. The general practice is to request respectable gentlemen to settle a dispute in the first instance, and it is only when these are unable to arrive at a settlement satisfactory to all the parties concerned, that the matter is taken to a regular Law Court. Under the native rule settlement by arbitration was the rule, and the regular Courts took up only such cases as could not be so settled. No one, the Committee think, would dispute the act that conciliation, when fairly and successfully carried out, is a blessing all round. Apart from the saving in money to the parties concerned—a very important consideration in this poor country—there is the moral and educative influence of the system which is scarcely less valuable. Under a successful system of conciliation, where the disputing parties have to place their facts before men of local influence and straightforward common sense, who are not hampered in their work by any mere legal technicalities, the people have to some extent the advantages of a Jury trial in civil matters by persons who know both the parties. The system is also free from all those demoralising effects which characterize litigation in Law Courts, *viz.*, the tendencies and inducements to fabricate evidence and prevent facts, and to take unfair advantage of mere technicalities. An amicable settlement of a dispute prevents much bad feeling, and teaches people to respect one another's right. Eminent Statesmen have often avowed that the policy of the British Government in India is to gradually educate the people of this country in the art of self-government, and the Committee think that a further extension of the system of conciliation to all classes of suits will exercise a most beneficial influence in this direction.

4. It might perhaps be objected that the legal training and general education of the persons who are available for doing the work of conciliators are not generally high, and that it is therefore unsafe to entrust them with the powers which the Act confers on them. But the Committee would submit that the functions of conciliators are not the same as those of Judges or even of arbitrators who have to minutely sift evidence and decide intricate questions of fact or law. Conciliators do not judge matters in dispute, but merely help the parties in effecting an amicable settlement. Common sense, respectability, disinterestedness, and honesty of purpose, are all the qualities that they need possess, and the experience of the past ten years justifies the Committee in maintaining that Government would never find it difficult to secure such persons for discharging the duties of concilators, and there would be no risk in conferring powers of mediation on them. It might be added that the conciliation system is in force in many of the European countries and in the United States, and the powers conferred upon the conciliators there are more extensive than those accorded to them by our legislature.

5. The Committee are not aware that Government has ever expressed dissatisfaction with the work done generally by conciliators. On the contrary, it has from year to year acknowledged the value of the work done by these gentlemen, and conveyed its thanks to those who

have shown zeal and ability in the discharge of their duties. The only objection within the knowledge of the Committee, taken to the work of conciliators, is that sometimes new transactions are embodied in the agreements effected by them. Now, in the first place, although a few conciliators might, owing to inexperience, commit such irregularities, the Subordinate Judges can easily rectify them by setting aside such agreements—a course which, so far as the Committee are aware, is generally adopted. Then there is the Special Judge with his Assistants to supervise the work of the Subordinate Judges, and no one, the Committee think, would seriously contend that this is not a sufficient safeguard against any possible irregularities. Again, even if the new transactions embodied by the conciliators in their agreements escaped undetected by the supervising machinery, no harm would result therefrom beyond the paltry loss of a few rupees to Government in the shape of stamp fees. But this loss is a consideration too trivial and too insignificant to justify the abolition of a system so far-reaching in is beneficial effects.

6. The Committee further beg to observe that the Village Munsif system has also become popular. This system has obtained for nearly 75 years in all districts in the Madras Presidency, where the Village Patel is *ex-officio* Village Munsif and is invested with large powers; and the Committee learn that the Government of the North-Western Provinces is thinking of introducing it in those Provinces. The costs of litigation in the shape of court-fees, process-fees, pleaders' fees, etc., in Civil Courts, and the delays and harassment are so great, that some relaxation in favour of poor suitors, such as that afforded by the Village Munsif system, is very desirable.

7. With regard to the Village Registration system, Government must have noted that it has almost entirely checked the complaints about the fabrication of bonds. It cannot be denied that, so long as the vast mass of the agriculturists are unable to read and write, such a check on the fabrication of bonds is necessary. The report of the Deccan Riots Commission shows that the Commissioners laid great stress on the necessity of appointing public notaries, and went so far as to prepare a draft law on the subject long before the Relief Act was thought of.

8. The last point that the Committee of the Sabha would beg leave to refer to is that it is not only desirable but necessary to have a Special Officer with sufficient leisure to supervise the work of these voluntary agencies and to help them in a friendly and sympathetic manner, and generally to supervise the working of the Act and give effect to the views of Government in a uniform manner, which advantage will be lost if the work was split up among a number of over-worked officers with varying opinions. While doing this work he can, if necessary, relieve the District Judges of a portion of their appeal work. The Committee are of opinion that much of the good which the Act is intended to achieve, and has in some measure already secured, will disappear if there is no Special Officer to supervise the working of the Act, and to suggest remedies whenever any defects come to his notice.

9. For the several reasons noted above the Committee pray that, if the report of the Special Officer has failed to satisfy Government about the successful working of the Act, the question at issue might be referred to a Special Commission. Under any circumstances the equitable provisions of the Relief Act should be retained with a view to modify the rigour of the ordinary procedure, and that the services of the voluntary Agencies of the Village Munsifs and conciliators should be continued. The Committee also pray that Government will be pleased to forward this representation to the Government of India and the Secretary of State for consideration before any final decision is arrived at.

From—P. G. MELITUS, Esq., Under Secretary to the Government of India, to the Secretary to the Government of Bombay, Judicial Department,—No. 1546, dated Calcutta, the 28th November 1891. No. 60.

I am directed to acknowledge the receipt of your letter No. 5659, dated the 24th ultimo, forwarding a representation submitted by the Poona Sarvajanik Sabha, in regard to Mr. Woodburn's report on the working of the Deccan Agriculturists' Relief Act.

2. In reply I am to request that, with the permission of the Governor in Council, the Sabha may be informed that the Government of India had already determined to appoint a Commission to investigate the working of the Act, and that they may also be referred to the Resolution* of this Department on the subject. I am to add that the letter of the Sabha will be forwarded to the Commission for consideration with the other correspondence relating to the matter.

* No. $\frac{17 \text{ Judicial}}{1497-1502}$, dated the 20th November 1891 published in the Supplement to the *Gazette of India* of the 21st idem.

No. 61. *Extract from the Proceedings of the Government of India, in the Home Department (Judicial),—No. $\frac{17\ Judicial}{1497-1502}$, under date, Calcutta, the 20th November 1891.*

Read—

The correspondence with the Government of Bombay on the subject of the Deccan Agriculturists' Relief Act 1879, ending with the letter from that Government, No. 7277, dated the 31st December 1890.

RESOLUTION.—The Deccan Agriculturists' Relief Act, XVII of 1879, has now been in operation for twelve years in the four districts (Poona, Satara, Sholapur and Ahmadnagar) to which it applies. It has been three times amended, in 1881, 1882, and 1886, and five years have now elapsed since it was made as complete a measure as its framers could devise for the purpose they had in view.

The Act was the outcome of an enquiry made, by a Commission composed of Mr. (now Sir) J. B. Richey, Mr. (now Sir) Auckland Colvin, Mr. A. Lyon, and Rao Bahadur Shambhu Prasad Lakshmilal, into a series of riots which occurred in 1875 in three out of the four districts above mentioned, when the agriculturist rioters attacked and burnt the houses and papers of the Marwari and Gujarati money-lenders whose debtors they were. The place of Mr. A. Colvin on the Commission was afterwards taken by a distinguished Revenue Officer of the same service, Mr. C. W. Carpenter, who was associated in the Commission's report.

Report of the Commission of 1875.

2. In their report the Commission, after giving an account of the disturbances and a description of the district in which they took place—a bare and sterile upland tract, diversified by valleys and stretches of fertile black soil, thinly peopled, with a precarious rainfall on which it depended almost entirely for its harvests—proceeded to review the history, from the commencement of British rule, of the relations between the Mahratta Kunbi cultivators who form nearly the whole of its inhabitants and the Marwari and other money-lenders settled among them. The peculiarity of these relations at the time of the riots was that, as in some other parts of India, the money-lenders wers chiefly foreigners, different in religion from their clients, entirely out of sympathy with them, and accustomed to retire with their profits after a sufficiently long course of business to their homes in Rajputana. Indebtedness was, however, shown to have been common among the Deccan ryots when their country came into our hands and the Sahukar or village banker, not then generally a stranger, was an important element in the polity of the Mahratta State.

Condition of the people at commencement of British rule.

The following summary is given of the condition of things at the commencement of British rule (1819-21) in the districts of Poona, Ahmadnagar and Sholapur*:—

1st.—There was a considerable burden of debt, and many of the ryots were living in dependence upon the Sahukar, delivering to him their produce and drawing upon him for necessaries.

2nd.—The ryot's property did not offer security for large amounts; his cattle and the yearly produce of his land being the lender's security, the mortgage of *miras* land was rather a means by which the Sahukar got a firmer hold upon the produce than upon the land itself, for immoveable property was not sold for debt, and the *miras* title would have no value for a non-agricultural landlord.

3rd.—Rates of interest were very high, and much of the debt consisted in accumulations of interest.

4th.—The causes of indebtedness were chiefly the revenue system, and sometimes expenditure on marriages or such occasions.

5th.—The amount of individual debt was usually moderate.

6th.—The Sahukars were usually men of substance, maintaining establishments employed in dunning and looking after debtors.

7th.—The creditor received little or no assistance from the State in recovering debts, but had great license in private methods of compulsion.

Early British Administration.

3. The first period of British rule was marked (as in most other newly acquired parts of India) by excessive revenue assessments, based on the accounts of the previous Administration, which represented the maximum collections possible in the most favourable seasons rather than the revenue which might be expected to be realised in average years. The ryots had no proprietory right, but held a certain proportion of their land on a tenure called *miras*, which conveyed a hereditary right of occupancy at customary rates. Within the first ten years after annexation

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* Satara did not become British till 1849.

were passed the Bombay Regulations II, III, IV and V of 1827, which provided the first regular procedure for Civil Justice, and remained in force till the repeal of the Usury laws in 1855 and the passing of the Civil Procedure Code in 1859.* Of these, Regulation IV exempted from seizure on account of debt the cattle and implements necessary for the support of the agricultural debtor, while Regulation V limited the rate of interest recoverable in a Civil Court to 12 per cent. per annum.

Then followed (1836-39), after nearly twenty years of over-assessment, the introduction of the Survey Settlement and the conferment of proprietory rights in land, upon which there ensued at first a great expansion of cultivation and a marked improvement in agricultural prosperity. Enquiries into the condition of the people, made in 1843 and 1852, nevertheless showed that with the increase in cultivation there had resulted a great increase in the burden of debt, and in particular that the Usury law of 1827 had proved, as all Usury laws have hitherto proved, completely ineffectual in securing its object. The Commissioners write—

"The Regulation was evaded by the money-lenders by the deduction of discount, or more properly of interest taken in advance, from the consideration given to the debtor. The Usury law had the natural effect of placing the debtor in a worse position by the introduction of a practice which has survived its cause, by which the debtor is compelled to co-operate in a fiction to evade the law; for the bond acknowledges receipt of a consideration which has not actually passed."

The increased credit which the ryot acquired with proprietory right in his holding had its natural result in the increase of private sales and mortgages to the money-lender, but until 1859 the sale of land under decree was rare.

Legislation of 1859.

4. The passing of the Civil Procedure Code in that year swept away the discretion which the Courts had possessed under the Regulations in enforcing decrees, and left it to the decree-holder to select his form of process. It abolished the exemption of the ryot's necessary cattle and implements from seizure for debt, and regulated the process of imprisonment so as to make it a most effective instrument for bringing pressure to bear on the debtor. The passing of the Limitation Act in the same year substituted a period of 3 years for 12 for bringing a suit for the recovery of money lent. But the passing of these measures was almost synchronous with a new wave of prosperity, due in the first place to the brisk prosecution of the railway and other public works in the Deccan districts, and later to the inflation of the cotton trade caused by the American War from 1862 to 1865. The burden of debt grew *pari passu* with the extension of agriculture and the introduction of a higher standard of living owing to these causes. The new Procedure Code enabled pressure to be brought to bear by means of the provisions for execution of decrees; and the new Limitation Law compelled frequent renewals of bonds, each renewal causing the incorporation in the principal amount of usurious interest. The following summary of the causes of agricultural indebtedness is given by the Commissioners—

1. Poverty associated with an unproductive soil, precarious climate, and irregularity in the receipts of income both as to period and as to value.
2. Ignorance and improvidence.
3. Extravagance.
4. Ancestral debt.
5. Expansion of credit associated with the stimulus to agricultural enterprise caused by the Survey Settlement.
6. Increase of population, while the return from land was not increasing.
7. Facilities for borrowing owing to the number of competing money-lenders attracted to the business by the advantages offered to the money-lender by our law and other circumstances.
8. The Limitation Law as leading to renewals on usurious terms.
9. The revenue system of a fixed demand associated with the variations in the seasons.
10. The temporary inflation of credit during the American War accompanied by an enormous increase of capital seeking investment.

It is not intended to place these causes in the order of their relative importance, and it will be seen that some of them (1, 2, 3 and 4) have been from the earliest times features of the condition of the peasantry with whom we are dealing; the rest are of more recent growth, and, with the exception of the last, are associated ore or less with our laws or administration.

Decline in prosperity.

5. This period of extraordinary inflation of expenditure, increase of obligations, and seeming prosperity was succeeded, between 1865 and 1874, by a disastrous decline. The demand for cotton ceased, the prices for ordinary agricultural produce fell with great suddenness to less than

* Parts of Regulatiolns II, IV and V of 1827 are still in force.

half their former rates, the expenditure on railway works stopped, and with the expiry of the first term of settlement, which began in 1836-37, a revision of assessment was taken in hand. The new assessments were introduced in the Poona district between 1869 and 1872, and resulted in an enhancement of more than 54 per cent. The continuous fall in prices, with years of failure of crops, led to an almost immediate reduction of the revised demand, but great mischief had been done before 1874 when this reduction was carried into effect.

The natural result of the reaction due to all these causes was to increase the pressure of the money-lender on his debtor. Private sales and mortgages grew apace; the number of suits for debt in the Courts of the Poona district doubled between 1867 and 1873; and applications for execution of decrees increased from 12,502 in 1868 to 28,894 in 1873. The fall of prices led to the rapid contraction of cultivation, only the best lands being retained, and these found their way, by sale or mortgage, into the hands of the money lenders. The ryots were brought with startling rapidity to the brink of ruin, and the result was the outbreak of 1875.

Condition of people as ascertained by the Commission.

6. The enquiries of the Commission showed that about one-third of the occupants of Government land were embarrassed with debt, that their debts averaged about 18 times their assessment, and that nearly two-thirds of the debt was secured by mortgage of the land. In the twelve villages examined as a test-area in the Ahmadnagar district, about one-eighth of the occupancies had been transferred to the Sahukars, besides those of which they had become the virtual owners by means of the mortgages they held, and the debt was nearly double the capital value of the ryots' land to an ordinary purchaser.

"The solution of this apparent anomaly," the Commissioners explain, "is that the amount of the debt as represented in the bonds held by the Sahukar is far more than the real consideration which has passed, and the Sahukars in no case expect to be paid in full; secondly, that the ryot's land is often more valuable is security to the Sahukar than it is as an ordinary investment to a purchaser, for, through the great reluctance of the ryot to sever all connection with his land, the Sahukar is able to exact more than the ordinary rent; and thirdly the land is not the only security which the Sahukar holds: the law gives him command not only over the debtor's moveable property, but over his labour and the labour of his family."

The transactions were found to be almost entirely conducted by means of bonds, an account current being hardly known :—

There is usually a debt of long standing, probably inherited, the interest of which makes a growing debit. Beside this debit there are the retail transactions called in the vernacular "give and take,"* meaning that the debtor delivers his produce, or as much of it as he is obliged to deliver, to his creditor, and the creditor supplies his needs, clothing, assessment, seeds, food, and cash for miscellaneous expenses. Every now and then a larger item appears on either side; a standing crop as yet unripe is perhaps sold after a valuation either to the creditor himself or another, the creditor in the latter case getting the price paid, or a pair of bullocks or cow and calf are given to the creditor on account; against this the debtor draws occasionally a considerable sum for a marriage, for the purchase of land or bullocks or a standing crop, or for the digging of a well. Bonds are continually passed as the account progresses; sometimes a bond is taken as a deposit, and the debtor draws against it; or a small transaction is included in a larger bond, and the debtor is to draw against the balance.

* *Len den.*

Marwari Sahukars keep accounts, but often only in the form of a memorandum book; money-lenders not belonging to the trading classes often keep no accounts; but with all the bond is the recognised record of the transaction. Bonds are never or very rarely made for large amounts. When a large amount of debt has to be reduced to paper several bonds are drawn: thus, a debt of R175 will be represented by one bond of R100, another of R50, and a third of R25. Probably the chief object of this arrangement is that the sahukar may have means to get a decree without much cost. * * *

When the debt has reached an amount for which the ryot's personal security is not sufficient, it is commonly converted into a mortgage of land. * * * Often before the mortgage of land is resorted to, there is a mortgage of the debtor's house, bullocks, crops, cart or other moveable property.

When the land has been transferred by mortgage the Sahukar almost invariably commences by leaving the debtor in occupation as tenant, and a form of mortgage exists in which the profits of the land are really all that is mortgaged, as the tenant is left in possession without any transfer or acknowledgment of the mortgagee's right, so long as he delivers the produce yearly. On a failure of the debtor to deliver the produce the mortgagee usually obtains possession. * * * Often it will be found that the rent is adjusted to cover the interest agreed on in the mortgage bond. As the amount of capital in the mortgage bond is usually more than the value of the land at 12 per cent. interest and as the rate of interest in the bond is usually at least 18 per cent., it follows that the land will not yield the required sum, and thus the mortgagee constantly receives the full actual rent of the land, and in addition exacts bonds for the yearly deficit. Often the rent is settled in kind, and the rates are determined by the power of the mortgagee to screw his tenant. * * * When the tenant pays in kind, his payments may exceed the amount of interest stipulated in the mortgage bond; but he keeps no account of such payments, and the creditor was found in all cases inquired into by the Commission to have no conception of his responsibility for accounts on this head. As the responsibility cannot be enforced by the ryot, it practically does not exist. Doubtless, most mortgagee landlords *have* an account, but the ryot cannot get it without going to Court, which to him is out of the

question. * * * The Sahukar as mortgagee-landlord usually allows the ryot to cultivate the mortgaged land, and as long as the ryot is left in this relation to his fields, he accepts his fate without much bitterness. It often happens, however, that owing to default in payment by the tenant, or to better terms being offered by another, or to the cattle and implements of the tenant being sold in execution of a decree, it ceases to be the interest of the mortgagee to leave the cultivation in the tenant's hands, and the land is then taken from him.

Besides the security of the ryot's personal credit, etc., the labour of the ryot is also drawn into his dealings with the Sahukar. This form of bond is not uncommon in Ahmadnagar, the terms being that the debtor is to serve the Sahukar and that his wages are to be credited at the end of the year, or that a certain sum is to be worked out by service to the Sahukar for a certain period. Sometimes the wife's labour is also included in the bond.

The Commissioners found that all transactions even the most trivial, were reduced to the form of written contracts :—

The ryot is constantly in great need, and has thus most limited choice in his means of relief. The *Sahukar* is sharp in business, and fully understands the weak side of the *Kunbi* and the urgency of his necessities. The terms upon which they deal are that every debit is to be protected by a bond, giving the *Sahukar* unlimited powers of recovery, and that the credit side is to be left to the honesty of the creditor.

Causes of hostility of ryots to money-lenders.

7. The Commission then proceeded to examine those incidents in the dealings of the ryot and money-lender which might be supposed to contribute to produce the feelings of bitter hostility between the two classes which culminated in the outrages, and to consider whether they were removable or remediable. They arranged these incidents under the heads of usury, *ex-parte* decrees, excessive powers of realising debts, loss of land by private sales, the Limitation Law, frauds, and the action of the Civil Courts.

Usury.

I.—In regard to usury, they pointed out that the question whether any particular rate of interest was usurious or not could only be answered after examination of the risk involved in the transaction, and after quoting some examples of the rates prevalent, they wrote :—

On the evidence generally it is impossible to come to any definite conclusion as to the fairness or unfairness of the rates of interest, as the accounts are vague and for the most part unsatisfactory in regard to the value of the property and even the amount of debt and interest and the security offered.

The rate of interest, they found, is determined rather by the risk of the aggregate of transactions than by that of individual cases. Those who borrow on good security thus pay, in an excessive rate of interest, for the bad security offered by the poorer debtors; and the Commissioners were of opinion "that excessive facilities in recovery of debt as well as othe causes had led to credit being largely given to the poorest class of ryots." In consequence of this speculative business the customary rates of interest had not fallen, as they should have done as the result of the better title and security afforded by the Survey Settlement. They thought there was no evidence to show that the profits of the money-lenders' business on the whole were extravagant. Competition, they held, had already established itself among Sahukars, and it was likely to increase and thus to reduce rates of interest.

Proposal to re-enact a usury law.

They were of opinion that, in view of the numerous and simple means which existed of evading a usury law, it would be impossible to reduce rates of interest by legislation. To the argument that even if in most instances a usury law led to evasion, it might still have a good effect (1) in setting up a standard of interest which would be beneficial, and (2) in extreme cases, where the lender was not inclined to incur the necessary risk, in causing loans to be refused, they replied that these good results were "of rather remote nature, and even if attainable they would not be sufficient to compensate for the evil result of raising interest generally in the manner described above, and for the demoralisation which usury laws tend to produce." They then considered a suggestion made by Sir (then Mr.) Raymond West,* that the rate of interest should be controlled, not for all cases by legislation, but in particular cases by the Courts :—

Proposal to give discretion to Courts to reduce interest.

In cases of all obligations for a principal of not more than R500 he would give the Courts full power to treat any interest in excess of 9 per cent. as simply penal, and to cut it down to such rate as, under the circumstances, should seem just. It appears to us that this method would have no advantages over a usury law, while it would have the additional disadvantage of uncertainty in its operation. No lender could foretell what rate of interest above the minimum would be treated as excessive, and the effect to the borrower would apparently be that of a usury law fixing 9 per cent. as the maixmum rate. We have formed a favourable opinion of the

* In his pamphlet entitled "The Land and the Law in India," 1872.

intelligence and character of the Subordinate Judges of the Bombay Presidency from the manner in which some of them have recorded thier views on the subjects now before us, but it must be remembered that to empower them to use a discretion such as that here suggested is to ask them to assume a responsibility for which the legal training within their reach and the national character hardly fit them. Diversity of practice in the use of this discretion would be almost inevitable, at least until a body of precedents had been created which should remove the subject from the sphere of discretion to that of law.

Government Agricultural Banks.

Among other means which had been suggested for reducing the rate of interest the Commissioners mentioned the establishment of agricultural banks by Government, but advised against the experiment for reasons which, it is sufficient here to say, were held to be conclusive when the subject was specially discussed by the Government of India during the viceroyalty of Lord Ripon.

Ex-parte decrees.

II.—*Ex-parte* decrees were shown to be unusually numerous in the Bombay Presidency generally as compared with other provinces of India, and specially so in the Deccan districts. The ratio of uncontested suits in Bombay in 1873-74 was 86 per cent. In all other provinces in India except the Central Provinces (where it was 73 per cent.) the ratio lay between 62 (Bengal) and 67 (Madras) per cent. Of the total number of suits 66 per cent. in Bombay, against a maximum of 25 per cent. (Madras) and a minimum of 7 per cent. (in the Punjab and Oudh) elsewhere, were decided *ex-parte*. In the four Deccan districts the ratio of *ex-parte* decisions was as follows:—

Ahmadnagar	73·0
Satara	73·4
Sholapur	70·7
Poona	67·5

The Commissioners found that the proportion of *ex-parte* decrees was highest in those districts where the suits for debt were most numerous, and lowest where land suits were most common. The ignorance and poverty of the debtor, his fear of the creditor and desire to keep on good terms with him, and his inability to produce evidence, were assigned as reasons why suits to which a defence might be made were uncontested. The Commission were not of opinion that *ex-parte* decisions were to any material extent due to the collusive non-service of the summons on the defendant. They held, however, that the Courts were overworked, and too ready to dispose of cases without proper investigation and weighing of evidence; and that this must have an injurious effect on defendants, rendering the assistance of pleaders necessary to put their cases properly, and thus involving an expense above the means of an agricultural debtor, who was thereby deterred from bringing forward his defence if he had any. The same pressure of work caused delay in the disposal of suits, which was harassing to the debtor by compelling him to be absent from his home and labour. They recommended, therefore, that the causes which debarred the debtor from a hearing should be remedied (1) by providing more Courts, so to ensure cases being heard on the first day set down for trial, and (2) by the Courts going on circuit.

Excessive powers given for realising debts.

III.—The Commissioners thought that the excessive powers given by the law to the creditor in releasing his debt were the main cause of the bitter enmity which existed between the money-lender and the ryot in the Deccan. The power of imprisonment, as at the time in force under the Code of 1859, and the then unlimited discretion of executing a decree against all the debtor's property, moveable and immoveable, were far in excess of the means of recovery given to the creditor by the law in any other civilized country. The power to imprison could be used not merely for its legitimate object of compelling the disclosure of the debtor's property, but also to harrass him and drive him into executing a fresh engagement. The Civil Procedure Code of 1859 had repealed the humane provision of Bombay Regulation IV of 1827, exempting from attachment the debtor's implements of labour and cattle required for cultivation, and the Commission recommended that it should be re-enacted. As regards the liability of the debtor's land to sell in execution, they were clearly of opinion that the substitution of the Marwari money-lender for the Kunbi peasant-proprietor was a great evil; but they were unable to recommend either the total exemption of land from liability, its exemption unless made specially liable by the owner,* or the substitution of temporary transfer to the creditor for sale. The first course, they held, would deprive the borrower of the security which brought

Proposal to exempt land from liability for debt.

* Mr. A. Colvin, in the separate memorandum which he recorded on leaving the Commission, strongly urged, on the authority of Sir George Wingate and Sir William Muir, the adoption of the principle that land should be saleable in execution only when it had been specifically pledged for the debt of which recovery was sought.

him credit on the most favourable terms, and thus cause him to pay the highest possible price for the accommodation he could not do without. The second would, they thought, compel the borrower either to give the land as security or to pay a higher rate of interest on an unsecured loan. In the third case they believed that the reversionary interest of the debtor would generally be discounted during the term of alienation, and the object of the provision be defeated. Finally, they pointed out that, so long as the law did not protect the produce of the land from seizure, and so long as the creditor could attach and sell all the profit of the land annually, the debtor might have nothing left to him except the trouble of cultivating, and it would be better to realise from the land directly and ostensibly. They thought it desirable, however, that before selling land in execution, the Court should be directed to make enquiry into the exact extent of the debtor's interest which was being sold : ignorance as to this point practically led to no one bidding except the decree-holder, who bought the land for a nominal sum; and they recommended that estates consisting of several fields or parcels should be sold in detail and not in one lot.

No limit to the currency of a decree.

Lastly, the Commissioners observed that there was no term to the currency of a decree, and that the creditor had by this means complete control over the debtor's future as well as his past earnings. The agriculturist had not the resource of insolvency, which was possessed by the trader in Presidency towns, and could acquire property only for the benefit of his creditor.

With these unlimited powers in his hands the creditor was able to use his decree as an engine of constant pressure upon his debtor. The decree was not put to the purpose for which it was given, but employed to extort fresh obligations.

Loss of land by private sale.

IV.—As regards loss of land by private sale, which the Commissioners recognised to be in the Deccan districts, voluntary only in name, they discussed Mr. Justice West's proposal that Government should pronounce all land held from it to be either inalienable except with its consent, or else subject on alienation to re-assessment at a rack-rent. After pointing out that neither Hindu nor Muhammadan law treated land as inalienable, they said—

No doubt it is possible to enact such a law as would prevent the excution of deeds of sale or mortgage in future. Such a law, however, would not prevent persons wishing to do so from transferring their land or an interest in it in some other shape. They might, for instance, call the transaction a gift, or a perpetual lease, or a purchase of an annuity on condition that the seller should hold the land so long as he paid the annuity. The only resource would be to declare land absolutely untransferable. This would be to subvert entirely the form of the property, and such a subversion could hardly be justified by any possible political or economic advantages.

Change in the Law of Limitation.

V.—The next subject discussed was the effect upon the debtor of the change in the Law of Limitation made by Act XIV of 1859. By Bombay Regulation V of 1827 the limitation for suits for debts not supported by an acknowledgment in writing had been six years, and for other suits for debt twelve years. By the Act of 1859 three years was fixed as the period for all suits for debt except those founded on a registered bond, when the period was six years. These shorter periods, while not injurious to debtors whose account was balanced and admitted at short intervals, had the effect, when all transactions were recorded in unregistered bonds, of causing such bonds to be renewed, under threat of a suit, at intervals of two years only, the interest due being incorporated in the principal and thus changed from simple to compound. Under the old law the provision of *dam dupat,* a rule of Hindu law which precluded the recovery as interest of more than the principal sum, was applied, and suits were not brought until the term of 12 years was nearly expiring. This Commissioners were unable to avoid the conclusion that the reduction of the period of limitation had been the cause of considerable hardship to the debtor. They did not, however, recommend a return to the old period, first, because it was of importance to keep the general limitation law free from frequent change; secondly, because if the debtor and creditor were placed on fair terms as regards the account between them, a short period of limitation is advantageous to both; and thirdly, because they believed that the cause of the present hardship would in time work out their own remedy. They proposed, however, that bonds and other instruments writen by the agency of the village notaries whose appointment they suggested should be treated as registered and thus acquire a period of six years.

Frauds by creditors.

VI.—Among the frauds which were universally charged upon the mony-lenders were omitting to give credit for payments made by the debtor, refusing to show an account, obtaining bonds in satisfaction of decrees and then enforcing the latter, retaining and suing upon old bonds

which had been cancelled by later ones. "These and similar fraudulent practices are illustrated in the Appendices to the Report: their impunity is made possible only by the ignorance and helplessness of the Kunbi, which place legal remedies practically beyond his reach." But the fraud was not all on the side of the creditor—

There is a strong concurrent opinion of local officers who have written on the subject that the relations of the Sahukar and rayat have been productive of considerable demoralisation of the latter. * * * But the contest is unequal. It requires some intelligence to use the resources of fraud and falsehood with any effect against the creditor, and as we have seen, it is only in a small minority of cases that the debtor ventures into Court to try conclusions.

Proposed precautions against fraud.

As a precaution against fraud in the bond the Commissioners proposed the provisions upon which Chapter VIII of the Deccan Agriculturists' Relief Act was afterwards modelled, *viz.*, that village registrars should be appointed to draw all bonds to which agriculturists were parties, and to attest and register them. And against fraud in accounts they put forward the proposals compelling the delivery of receipts and statements of account by creditors to debtors which are embodied in Chapter IX of the Act.

Deficiencies in the action of the courts.

VII.— In regard to those grievances which resulted from the action of the Courts, the Commissioners found that the transactions which came before the Subordinate Judges were of the most complicated character, in which it was of the utmost importance to hold the balance evenly between the creditor and debtor. They hinted that the Courts were too few and had too much work to get through for them to give that attention to their cases which they required, and that there was reason to believe that the pay of the Judges (R200 a month) was insufficient to attract competent men. They also pointed to the excessive burden of costs, and the high surplus of receipts shown to the credit of the Courts in the Bombay Presidency, and suggested a reduction in the Court Charges.

Defects in the Revenue system; greater elasticity required.

8. Among other causes of the excessive pressure of debt upon the agriculturists those members of the Commission who were accustomed to the settlement system of Upper India (Messrs. Colvin and Carpenter) were inclined to give much weight to the Bombay system of settlement, which at each revision imposed rates upon all land in occupation much in excess of those previously paid, while the system of occupancy, by which each field taken up was at once assessed with its quota, left no margin such as is provided in Northern India, where the village is the unit of assessment, by the unassessed waste included in the village boundaries. On this subject the Commission were not unanimous, but the Bombay members (Messrs. Richey, Lyon, and Shambhu Prasad) joined with their colleagues from the North-Western Provinces in ascribing much of the indebtedness of the rayats to the fixity of the revenue demand associated with variation of season. They thought that "if it were possible to introduce a more elastic system than the present, which should yet be governed by fixed principles and avoid haphazard remissions, both the rayats and the Government would in the end be gainers." They did not formulate any definite proposals under this head, but threw out the suggestion that—

As the outturn of produce in these drought stricken districts varies directly with the quantity and timeliness of the rainfall, and as these are matters which can be accurately ascertained, it may be possible that some system of adjusting the Government demand to the ryot's capacity within reasonable limits might be made to work without being open to the objection of uncertainty.

They pointed to the system of annual remissions for failure of crops in force in the Madras Presidency as an example of the measures which might be applied in the Deccan.

Gradual introduction of enhanced demand.

They also recommended (though not attributing the riots to the introduction of the revised assessment, which indeed had not been introduced at all in the Ahmadnagar district, though it had been in Poona), that when the Government demand on revision of settlement was enhanced by more than 25 per cent., the increase should be imposed gradually, as was already done in the North-Western Provinces.

Remedies proposed.

9. The main remedial measures recommended by the Commission were the following, some of which required legislation, while others could be effected without it—

Act for the prevention of frauds.

I.— The passing of a Bill for the prevention of frauds by the appointment in every district of Public Notaries to draw up instruments on behalf of persons applying to them, to witness execution, and to register the instrument after execution; and by enforcing the delivery of

receipts and accounts. As already mentioned, these provisions were adopted in substance and appear in Chapters VIII. and IX of the Deccan Agriculturists' Relief Act of 1879.

Act for amending the law of execution.

II.—The passing of a Bill for amending the law relating to the execution of decrees. The draft submitted contained the following provisions, most of which have since been adopted in substance into the general law of Civil Procedure—

(1) The abolition of imprisonment for debt, and the substitution for it of provisions compelling the judgment debtor to give a full disclosure of his property.*

(2) The exemption of necessaries from attachment and sale.†

(3) Enquiry by the District Court into the extent of the debtor's interest in immoveable property proposed for attachment, and its net annual value, and provision for settling the debt by charging the net annual profits if it can be liquidated in this way within 20 years.‡

(4) Provision for the Collector having a right of pre-emption in any charge upon land sold as provided in the preceeding clause, and recovering the amount as an annual revenue demand.

(5) If the property has to be sold, the proclamation of sale to state the extent and nature of the debtor's title in it.§

(6) In order to secure that a decree shall be a *finis litis*, provision was made that any agreement entered into by way of an adjustment of a decree should be carried into effect by the Court executing the decree and not by a separate suit, while any agreement obtained by the use of process in execution or threat of process should be void.||

(7) Provision was made that no application for the execution of a decree should be received after the expiration of six years from the date of the decree.¶

Improvement of Courts.

III.—They proposed the following alterations in the conduct of judicial business :—

(1) That the Subordinate Judges in the Deccan districts should be given the powers of Small Cause Courts, specially qualified Judges being selected for the work.

(2) That in order to facilitate the appearance of defendants, small debt cases should be heard by Subordinate Judges in Village Courts at stated intervals.

(3) That the Patel of every village should be made an Officer of the Court for the purpose of being present at and attesting the execution of all processes.

(4) They also suggested that in each Subordinate Judge's Court a pleader should be appointed specially to represent illiterate defendants.

Insolvency Law.

IV.—They thought that an Insolvency Act for the Mufassal was urgently needed, but were of opinion that if the proposals made under head II above were carried out its application to the case of agriculturist debtors might for the time be deferred.**

Anticipations of Commission as to effect of measures recommended.

10. It is worth while to quote the passage with which the Report concludes, in order that it may be seen what effect the Commissioners anticipated from the adoption of their recommendations :—

Measures such as those which we advocate may be objected to on the ground that, as they directly tend to reduce the Sahukar's security by limiting his power of recovery, they will raise the rate of interest. The limitation of the powers of recovery, together with obstacles in the way of unfair dealing, will, we are of opinion, operate rather to restrict the Sahukar's business to its legitimate limits; that is to say, by raising

* See Sections 245 A. to 245 D. of the Code of Civil Procedure, added by Act VI. of 1888; also Section 267 of Act X. of 1877.

† See Section 266 of Act X. of 1877, clauses (a), (b), (c) (added to by Act VII. of 1888).

‡ See Sections 321 to 326 of the Civil Procedure Code (added to and enlarged in 1882).

§ See Section 287 of Act X. of 1877.

|| See Section 257 A. of the Code of Civil Procedure (added by Act XII. of 1879).

¶ See Section 230 of the Civil Procedure Code (1877); also Schedule 2, Article 179, of the Limitation Act, 1877.

** An insolvency law for *mufassal* debtors was supplied in Chapter XX. of the Civil Procedure Code of 1877 (new Act XIV. of 1882).

the rate of interest will exclude the worst class of borrowers from obtaining loans altogether. The rate is, under the present conditions of the Sahukar's trade, in some degree determined by the risk of the worst cases; but the worst class of debtors would not be able to borrow money at all, or only in very small amounts, if the creditor had not the large powers which the law now gives him; if these powers are withdrawn, the money-lender will have to restrict his dealings to the more solvent and respectable borrowers, and they will not be burdened with the risks of the bad debtors The effect of changes favourable to borrowers has been rather to enlarge the area of indebtedness, than to reduce interest. A change in the opposite direction may be expected, therefore to contract the area rather enhance interest. The best class of Sahukars rarely have recourse to the Civil Court; their business would be hardly affected by any change in the law; the effect of the proposed changes then would fall upon the lower class; it is this class only which lends to the poor and east respectable ryots; the better class of borrowers will always be able to obtain credit from the better class of Sahukars who do not depend upon the Civil Courts for the recovery of their debts.

*　　*　　*　　*　　*　　*　　*　　*

It may reasonably be anticipated that, if the measures which we advocate become law, there will be a very material reduction in the work of the Subordinate Courts, which is now believed to be beyond their strength. Improvements in the system of dealing ought both to improve the relations of debtor and creditor and to facilitate the disposal of suits when the parties differ. Curtailment of the creditor's excessive powers of recovery by law ought to check undue dealings, and the vast amount of debt due from insolvent or nearly insolvent estates, which gives occasion both to constant suits and to constant applications for execution. The extension of limitation for bonds will enable the debtor to stave off the constantly recurring crises which end so often in a suit. The restriction of the currency of decrees and the discouragement to their adjustment by new bonds will stimulate the creditor to obtain speedy satisfaction and reduce the number of processes. The hearing of cases on the spot by enabling the Court at once to procure the attendance of witnesses and the production of evidence will obviate delays and postponement. The use of the Small Cause Court procedure will promote despatch. For these and similar reasons it may be anticipated that, although a heavy pressure of work at present is probable, the ultimate effect of the measures proposed will be to bring the work of the Subordinate Courts within their powers, and that the only additional machinery which the carrying out of these measures will involve will be an increase in the staff and establishment of the District Court.

II.

Passing of the new Code of Civil Procedure, 1877.

11. Three years and-a-half elapsed between the submission of the Report of the Riots Commission and the passing into law of the Deccan Agriculturists' Relief Act, and this interval was marked by the occurrence of the famine of 1877 in the Bombay Presidency and the enactment of the new Civil Procedure Code, Act X. of the same year. The effects of the former were transient; but the latter, as will have been seen from the last paragraph but one, incorporated in the general law nearly all the most important recommendations of the Commission so far as they related to the action of the Courts.

Opinion of Sir P. Wodehouse's Government on the proposals of the Commission.

12. The first expression of opinion on the Report was contained in the letter from the Bombay Government (then presided over by Sir Philip Wodehouse), No. 2202, dated 6th April 1877. While differing from the Commission in regard to the possibility of improvement* in the Bombay revenue system, the Governor in Council accepted their proposals under the following heads:—

* *Ante*, paragraph 8.

(*a*) that all bonds between agriculturists and money-lenders should be written by and executed before public notaries;

(*b*) that the ryot should be entitled to receive from his banker a yearly statement of his account;

(*c*) that receipts should be required for all payments made, payment being endorsed on the bond;

(*d*) that ryots should have passbooks, in which their dealings with their Sahukars should be entered;

(*e*) that the number of Judges (financial considerations permitting) should be increased;

(*f*) that the Judges should go on circuit and hold court near the home of the parties;

(*g*) as regards interest, they agreed with the Commission that no usury law would be of the slightest use, and that the grant of discretionary powers to Courts to reduce the rate of interest would also be ineffectual. They trusted, however, to the effect of the High Court's rulings regarding the equitable powers of the Courts to interfere with unconscionable contracts, and hoped that due attention would be given to these expositions of the law (Bombay Regulation V of 1827, section 9).

The Bombay Government, going beyond the recommendation of the Commissioners, proposed to revert to the old term of twelve years' limitation for money debts.

They dissented from the proposal to abolish imprisonment for debt; they concurred with the Commission that it was not desirable to exempt agricultural land from liability to sale in execution of a decree; but they also agreed that measures should be taken, by improvements in the conduct of sales, to obtain a good price for land sold in execution, and that whenever the debt could be discharged by temporary management, the amount required should be advanced by Government and recovered from the land by a special agency, the estate being then handed back to its owner free of encumbrances. (The last two proposals, except as to the advance of funds by Government, had already been provided in the new Civil Procedure Code.)

Opinion of Sir Richard Temple's Government on the same.

13. In January 1878 the subject was taken up afresh by Sir Richard Temple, who had succeeded Sir P. Wodehouse as Governor of Bombay. Additional remedies were now proposed and a draft Bill was forwarded for giving effect to them. These were the following:—

(1) that in suits against agriculturists the Courts should be required to go behind the bond (whether a defence is offered or not) and to call upon the plaintiff to prove the origin of the debt, the nature of each subsequent transaction, and the actual receipt by the debtor of the amount shown as advanced to him; where the amount advanced was doubtful, an equitable estimate was to be made by the Court, or the case might be referred to arbitrators;

(2) that the Court, after ascertaining the principal advanced, should make up an account, allowing only reasonable simple interest;

(3) that the amount of interest to be received by the creditor should in no case exceed the principal (the rule of *dám-dupat*);

(4) that in the case of ancestral debts, unless the person sued accepted full liability he should be held liable only for the principal and simple interest up to the date of the ancestor's death, or if the ancestor was not his father for the principal only without interest;

(5) that agriculturists might bring suits for accounts, whereupon the amount due should be determined in accordance with the foregoing provisions;

(6) that land belonging to an agriculturist should be liable to attachment and sale in execution only if it had been especifically mortgaged by a registered bond as security for the repayment of the debt sought to be recovered, and that all bonds for land should be registered, whatever the value of the land pledged;

(7) that indebted agriculturists might apply, if their debts amounted to R100 or upwards, to be made insolvents, notwithstanding that they were not (as the Civil Procedure Code provided) under arrest or imprisoned in execution; and that a creditor to whom R100 or more was due might similarly apply that the debtor should be declared insolvent.

Opinion of the Government of India, 1878.

14. Of these proposals the Government of India, in their letter of the 1st July 1878, accepted the 6th and 7th (except as to applications by creditors for declarations of insolvency, of which they did not see the use), and promised legislation to give effect to them. As regards the first, they held that Section 9 of Bombay Regulation V of 1827, which is still in force and provides that "written acknowledgments of debt in any shape shall not be held conclusive in a Court of law as to the amount, if the defendant show that a full consideration has not been received," supported by a series of decisions of the Courts applying its principle to suits by money-lenders, was sufficient; and that to cast upon the plaintiff, even in cases where no defence was set up, the burden of proving the actual receipt of the consideration stated in the bond and the absence of fraud, would throw upon the Courts an amount of work which they would be unable to get through, would afford many opportunities for fraud and evasion to dishonest debtors and might thus be an incentive to reckless borrowing, and would conflict with the provisions of Section 102 of the Evidence Act as to the burden of proof. As regards the second and third, they cited a decision of Sir Barnes Peacock holding that Act XXVIII of 1855 did not repeal the Hindu laws as to the rate of interest, and a series of decisions of the Bombay High Court to the effect that that Act did not abrogate the rule of *dam dupat*. As regards they fourth, they referred to Act VII of 1866 of the Bombay Counci

dealing with the liability of a Hindu for his ancestor's debts, which they thought had been overlooked. If the Bombay Government still desired legislation on the three points last mentioned, it was open to them to undertake it in the Local Council.

Sir Richard Temple's rejoinder; shifting of burden of proof on to plaintiff in money-lenders' cases.

15. In the correspondence which then ensued Sir Richard Temple argued strongly in favour of the position taken up by him, that the Court should be required, whether the defendant appeared or not and whether he made a defence or not, to investigate the history of the transaction, and that the burden of proof should be cast upon the plaintiff in all cases where he was a money-lender suing on a bond or mortgage deed and the defendant was a ryot. He "expressed his earnest conviction that unless the proposed enactment included these provisions, it would fail to touch the principal root of the evils which it was intended to remedy: though good so far as it went, it would prove but a half measure, and consequently would fall short of the expectations both of the Government which passed it and the people who might look to it to save them from some grave faults in the existing system of civil justice."

Sir Richard Temple did not think it necessary to alter the period of limitation from three years to twelve, as advocated by his prodecessor, if the other modifications in the law proposed by him were carried out.

The Government of India were still unable to accept the proposal to shift the burden of proof. The following passage from their letter of the 27th November 1878 contains a summary of the argument from their point of view:—

His Excellency the Governor in his Minute says that if his paoposal under head (*a*) be passed into law, "they (the ryots) would set up defences fast enough"; and there can be no doubt that such would be the case. The Government of India are, however, unable to perceive the equity of the proposal that, there being an acknowledgment which the defendant does not deny, which under the further proposals now submitted, would have to be attested in all its stages before a Notary Public, and which, even apart from such proposals, might be strengthened by the ordinary registration procedure, the defendant should, on its production in Court, be able, by a simple denial as to the amount, and without futher trouble, to cast upon his opponent the responsibility of establishing the correctness of transactions beneficial to himself, and dating, perhaps, from many years. There can be little doubt that such a provision would open the door to wide dishonesty and demoralisation.

As matters stand, under the Regulations of 1827 and the rulings which have governed similar cases of contract elsewhere, the Court, in suits where a defence is set up, is bound to go behind the record and enquire into all the facts; but to enable it to do so, the defendant who contests the accuracy of the bond to which his signature is attached is required to sustain his objections by evidence. The Government of Bombay desire by fresh and positive legislation to set aside this principle, to impose upon the Court, not only in defended actions, but in cases tried *ex-parte*, the obligation to investigate completely, in all cases without exception, all the facts before a decree can be given, and to throw the burden of proving those facts, also always and without exception, upon the plaintiff. The result of such legislation would certainly not be in the direction of encouraging thrift and caution and forethought—virtues which it is desired to foster among the ryots of the Deccan,—but would be either that loans would cease—a possible advantage, though not such as the ryots might expect,—or that the agriculturist would indulge in the luxury of unlimited borrowing at any rate of interest the money-lenders might demand, under the knowledge that by a simple repudiation of the debt, or even by sitting still when the case came into Court, the uncertainties of the law would all be in his favour, and that he would lose rather than gain by intervention in the suit.

Intervention of the Secretary of State.

16. Meanwhile the Secretary of State (Lord Cranbrook), in a Despatch dated the 26th December 1878, informed the Government of India that the Report of the Deccan Riots Commission had been, since November 1877, under the consideration of a Committee of his Council appointed by Lord Salisbury, his predecessor in office, and that Lord Salisbury, though not fully satisfied with all the principles contained in the measure, had been prepared to sanction experimentally the legislation proposed by the Government of Bombay in their letter of January 1878 (*ante*, paragraph 13.) Lord Cranbrook expressed hislagreement with his predecessor on this subject, and desired that, instead of the matter being dealt with piecemeal, partly by a Bill in the Legislative Council of the Governor General and partly by another in the Council of the Governor of Bombay, it might be taken up in a comprehensive manner by the Government of India.

After reciting the conclusions of the Commission, and pointing out that most of the causes of the indebtedness of the agricultural population therein enumerated were incapable of remedy by the action of Government, Lord Cranbrook observed that it appeared to him absolutely necessary to increase the number and officiency, of the Courts. He cited the example of England, where similar evils, due to the costliness and inaccessibility of the Courts of Justice, had been successfully met by the establishment of Small Cause Courts. But he

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thought the remedy best adapted to the condition of India would probably be found in the introduction of a summary petty jurisdiction, with special powers of conciliation, such as that exercised in France by the *juges de paix*. He thought it desirable that the summary jurisdiction proposed should be without appeal, and that professional pleaders should be excluded.

The Government of India thereupon communicated again with the Bombay Government and deputed the Honourable T. C. Hope, then an Additional Member of the Legislative Council of the Governor General, to prepare a draft Bill in communication with that Government and with the Home, Revenue and Agriculture Department of the Government of India. It was in this letter (No. 222, dated 26th February 1879, paragraph 14) that the suggestion was first thrown out that the petty summary jurisdiction in suits for small amounts desiderated by the Secretary of State might be found by adapting to Bombay the Madras system of Village Munsifs who have final powers in suits for personal property up to R10, and by consent of parties up to R100, with or without the assistance of a *panchayat* (or local jury).

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17. Mr. Hope visited Bombay, and on the 18th April 1879 the Government of that Presidency submitted the draft Bill which eventually became Act XVII of 1879. The new proposals contained in this draft, which had their genesis in the Despatch of the Secretary of State referred to in the preceding paragraph, were the following:—

(1) The extension of the final and summary powers of the Subordinate Judges (whose number, in the four Deccan Districts, was to be increased from 24 to 30).

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The provisions as to Village Munsifs were taken generally from Madras Regulation IV of 1816. The Bombay Government did not anticipate that it would be possible to find many persons in the rural districts to whom this jurisdiction could be entrusted, village headmen in Bombay not being deemed sufficiently trustworthy, and many of them being illiterate. Sir Richard Temple wrote—

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* Printed on pages 58 to 64 of Selections, Vol. I.

be unable to shake off when he came to try the matter in dispute judicially." Sir R. Temple was strongly adverse to giving the Conciliation Judge power to compel the attendance of the defendant. The draft provided that no suit which could have been brought before a Conciliation Judge should be entertained in a Civil Court until recourse had been had to the former without success.

Additions to draft by Government of India.

18. In communicating the draft Bill to the Legislative Department various modifications were made by the Government of India which it is unnecessary to notice here, but one point which was strongly insisted on was the necessity, in view of the provisions barring appeals, for strengthening the arrangements for skilled supervision and inspection of the Courts having jurisdiction under the law. The Government of India also desired the extension of the period of limitation from three to six years in the case of ordinary money bonds and to twelve years in the case of registered bonds to be included in the draft.

The Deccan Agriculturists' Relief Act, 1879.

19. The measure of which the inception has been traced above was introduced in the Legislative Council of the Governor General on the 17th July 1879 by the Honourable T. C. Hope, and finally passed into law on the 29th October of the same year. The following is a summary of its chief provisions :—

I.
Special Small Cause Court Procedure.

(I) By Chapter II a special procedure is applied to suits of the following classes :—

(*a*) Suits for an account instituted by an agriculturist, irrespective of amount;

(*b*) Suits of the following descriptions up to a value of R100 if laid before a Subordinate Judge of the 2nd class and of R500 if laid before a Subordinate Judge of the 1st class :

(*w*) Suits for recovery of money lent, the price of goods sold, on account stated, or on a written or unwritten agreement to pay, whether the defendant is an agriculturist or not;

(*x*) Suits for recovery of money due on contract other than the above and suits for rent or for moveable property or its value, or for damages, whether the defendant is an agriculturist or not;

(*y*) Suits for foreclosure or for possession of mortgaged property, or for sale, when the defendant is an agriculturist;

(*z*) Suits for redemption of mortgaged property when the plaintiff is an agriculturist.

The special procedure (which takes the place of the Small Cause Court procedure) includes the following provisions :—

(1) In every case in which it seems possible to dispose of a suit at the first hearing, the summons is to be for the final disposal of the suit, and in every suit the Court *shall* examine the defendant as a witness unless, for reasons to be recorded in writing, it deems it unnecessary to do so (Section 7).

(2) Written statements cannot be filed in cases coming under heads (*w*) and (*x*) above without the permission of the Court;

(3) No appeal lies from a decree or order passed in any suit to which this chapter applies.

II.
Special provisions relating to agriculturists' suits.

(II) Chapter III relates only to suits and proceedings to which agriculturists are parties. The following are its provisions :—

(1) An agriculturist defendant can be sued only in a Court within the local limits of whose jurisdiction he resides.

History of transaction.

(2) In a suit coming under heads (*w*), (*y*) or (*z*) the Court, if the amount of the creditor's claim is disputed, must enquire into the history and merits of the case from the commencement of the transactions between the parties out of which the suit has arisen, first, with a view to ascertaining whether there is any defence on the ground of fraud, mistake, accident, undue influence, or otherwise; and secondly, with a view to taking an account between the parties. When the amount of the claim is admitted, and the Court, for reasons to be recorded, believes that the admission is true and is made by the debtor with a full knowledge of his legal rights as against the creditor, the Court shall not be

bound to enquire, but may do so. In other cases of admission the Court is bound to enquire (Section 12).

(3) When an enquiry as provided above is made, the Court is to open an account between the parties, notwithstanding any agreement to the contrary or any statement or settlement of account or any document purporting to close previous dealings and create a new obligation. The account is to be of the transactions from the beginning according to the following rules :—

Account to be opened.

(a) principal and interest are to be separated ;

(b) the debtor is to be debited as principal with money actually received and the price of goods sold ;

(c) he is not to be debited with any money which he has agreed to pay under pressure by threat of execution of a decree (see Section 257A, Civil Procedure Code) ;

(d) he is not to be debited with any accumulated interest converted into principal at any settlement of account, unless the Court, for reasons recorded, deems such debit reasonable ;

(e) in the interest account *simple* interest is to be entered monthly on the balance of of principal at the time outstanding ;

(f) all receipts are to be credited first towards interest and the rest towards principal ;

(g) when the account is finally made up the interest allowed is never to exceed the principal found to be due (Section 13).

(4) The interest to be allowed in the account above provided for is to be that agreed upon, if reasonable, or, if that is not deemed reasonable, then the rate which the Court deems reasonable (Section 14).

Rate of interest may be altered if unreasonable.

(5) Instead of making the enquiry into the history and merits itself, the Court may direct the amount due to be ascertained by arbitration (Section 15).

Compulsory recourse to arbitration.

(6) An agriculturist may sue for an account of money due by him, and in such cases the amount due is to be ascertained as above, heads (3) and (4) (Section 16) ; any amount found due may be ordered to be paid by instalments (Section 17).

Amount may be sued for.

(7) When a decree has been passed against an agriculturist under which a sum of less than R50 is recoverable from him, if the Court finds that there is no other claim against the judgment-debtor and that he is unable to pay the whole, it may direct him to pay what it thinks he can pay, and discharge him of the rest (Section 19).

(8) The Court may at any time direct the amount of a decree passed to be paid by instalments (Section 20).

Instalments may be ordered at any time.

(9) No agriculturist can be arrested or imprisoned in execution of a decree for money (Section 21).

No arrest of agriculturist for debt.

(10) No agriculturist's immoveable property can be attached or sold in execution of a decree unless it has been specifically mortgaged for the repayment of the debt to which such decree or order relates ; but the Court may direct the Collector to take possession, for a period not exceeding seven years, of any such property of the judgment debtor which in opinion of the Collector is not requirred for his support and that of his family and the proceeds may be applied in liquidation of the debt.

Immoveable property only to be sold in execution when specifically pledged.

(III). Chapter IV provides a special insolvency procedure for agriculturists, of which the following are the principal features :

III.—Special Insolvency Procedure.

(1) Insolvency jurisdiction is given to Subordinate Judges (the Civil Procedure Code gives it only to the District Court).

(2) An agriculturist who owes R50 or upwards may apply for a declaration of insolvency, though he has not been arrested or imprisoned, and no attachment has

been issued against his property (the Civil Procedure Code permits application only in the cases specified).

(3) The Court must issue a declaration of insolvency if the applicant is found to be really insolvent, notwithstanding the existence of grounds which, under Section 351 of the Civil Procedure Code, would make such a declaration improper (false statements in the application, fraudulent transfers of property, recklessly incurring debt, giving unfair preference to one creditor, or any other act of bad faith).

(4) The Nazir of the Court is to be appointed Receiver, and is to receive no commission.

(5) Claims against an insolvent are to be determined in the manner prescribed in Sections 12—15 of the Act.

(6) The immoveable property of an insolvent is not to vest in the Receiver, but may be managed by the Collector, if not required for the support of the insolvent and his family, for any period not exceeding seven years for the benefit of the creditors.

(7) If any scheduled debt is secured by a mortgage of immoveable property, the Court may direct the Collector to raise the amount of the debt, if he can, by a premium for letting the property for a term not exceeding twenty years, or, if he cannot obtain such a premium, to sell the property.

IV—Village Munsifs.

(IV). By Chapter V Village Munsifs are provided to have final jurisdiction in suits for money, etc. (clause *w* of Chapter II) up to 10 rupees. The Munsif is ordinarily to be the village Patel or some other person having local influence in the village, and his decree is only open to revision on the ground of corruption, gross partiality, or misconduct.

V.—Conciliators.

(V). Chapter VI relates to Conciliation. Conciliators may be appointed by the Local Government for any local area, the only personal restriction being that they must not be officers of police. They hold office for a term not exceeding three years.

Any dispute to which an agriculturist is a party may be brought before a Conciliator, who is to take down the substance of the case and invite the person against whom the application is made to appear before him on a date fixed.

When all the parties are present, the Conciliator is to hear them, and to use his best endeavours to induce an amicable settlement. Witnesses are to be heard, but their evidence not to be recorded.

If any agreement is arrived at, it is to be written out, read and explained, and signed by the Conciliator and the parties. When the agreement finally disposes of the matter, it is to be forwarded to the Court having jurisdiction, who after one month orders it to be filed, whereupon it acquires the force of a decree of the Court.

If the person against whom the application is made cannot be found, or refuses or neglects to attend, or no settlement is arrived at, the Conciliator is to give the applicant a certificate to that effect, and without such a certificate from a Conciliator no suit can be brought against any agriculturist residing within an area for which a Conciliator has been appointed.

VI.—Superintendence and Revision.

(VI). District Judges are required by Chapter VII to inspect, supervise and control the proceedings of all Subordinate Judges under Chapters II and IV (Small Cause and Insolvency jurisdictions) and of all Village Munsifs and Conciliators. The District Judge may transfer cases to his own file, stay proceedings and sit on a bench with the lower Court.

The Local Government must appoint an Assistant or Subordinate Judge to inspect and supervise the proceedings of Subordinate Judges, Village Munsifs and Conciliators within each District Judge's jurisdiction.

The District Judge may call for and revise the proceedings of any Subordinate Judge and pass any decree or order he thinks fit in revision; the Inspecting Assistant or Subordinate Judge, if he thinks any order wrong, is to report to the District Judge.

The Local Government may appoint a Special Judge to discharge the functions of the District Judge as detailed above. Such a Special Judge was appointed from the commencement of the operation of the Act, and the District Judges have never hitherto exercised the supervision provided for by this chapter.

No order of a District, Special, or Inspecting Assistant or Subordinate Judge passed under this chapter is open to appeal.

(VII). The next chapter relates to Village Registrars. Where they have been appointed, no instrument executed by an agriculturist is to be deemed valid unless written by, or under the superintendence of, and attested by, a Village Registrar. The Registrar is to keep a register in which he is to enter a copy of every instrument executed before him, and all instruments so executed and registered are to be deemed to have been registered under the Registration Act.

VII.—Village Registrar.

(VIII). By Chapter IX all persons to whom agriculturists make payments in liquidation of a debt are required to tender a receipt for such payment, whether demanded or not; and every agriculturist is declared entitled to receive on demand annual statements of account, or, if the creditor is a trader or money-lender, a pass-book, in which his account is to be written up to date. Any person refusing or neglecting to tender a receipt, a statement of account, or a pass-book, is liable to a fine of ₹100 for each offence.

VIII.—Receipts and statements of account.

(IX). By section 68 of the Act legal practitioners are excluded from appearance before a Village Munsif or Conciliator, or before any Subordinate Judge when the case relates to an amount exceeding ₹100; in the last mentioned case the Subordinate Judge may, however, permit a legal practitioner, for reasons recorded in writing, to appear if he thinks it desirable. By section 69 a Subordinate Judge, if in a case before him the party opposing an agriculturist employs a legal practitioner, may direct the Government pleader to appear on behalf of the agriculturist.

IX.—Pleaders excluded: legal assistance to agriculturists.

(X). No mortgage, lien or charge upon any immoveable property belonging to an agriculturist is valid unless created by an instrument in writing; and all instruments creating any such mortgage, lien or charge executed before the Act came into force were repuired within one year from its commencement.

X.—Mortgages must be in writing.

XI.—Special period of limitation.

(XI). The following special periods of limitation were prescribed for suits against agriculturists:—

(*a*) when based on a written and registered instrument, twelve years;

(*b*) in any other case, six years.

(XII). The decision of any Court of first instance that any person is or is not an agriculturist is declared final.

20. As already mentioned, the Act has been thrice amended since its passing. In 1881 Act XXIII of that year explained that the officer of police, who by section 38 could not be appointed a Conciliator, did not include a police *patel*; abolished the provision in section 68 which excluded legal practitioners from appearing before a Subordinate Judge in petty cases; repealed section 71, which required instruments executed before the Act commenced to be registered; and made several other minor changes of wording. Act XXII of 1882 inserted four new sections, 15 A to 15 D, dealing with mortgages. These sections provided—

Amendments of Act since 1879.

(1) that the agriculturist mortgagor might obtain a decree for redemption, though the time fixed by the mortgage had not arrived, or the debt had not been fully paid;

(2) that instalments might be fixed by the Court, to be paid by the mortgagor, in decrees for redemption, foreclosure, possession or sale of mortgaged property;

(3) that a mortgagor might sue for an account of the amount due on mortgaged property.

This Act also amended section 19 so as to authorise the Court to take insolvency proceedings of its own motion, and not merely on the application of the debtor; and in section 54 gave the Courts power to refer to the High Court for decision any question of law or usage having the force of law, or the construction of a document. The amending Act (No. XXIII) of 1886 gave power to extend the law, either wholly or in part, with the previous sanction of the Governor General in Council, to any other district in the Bombay Presidency; in section 12 it required the Court to examine both the plaintiff and defendant as witnesses unless, for reasons to be recorded, it deemed it unnessary to do so. In section 22 it declared standing crops to be available for attachment and sale in execution; in section 40 it gave Conciliators specially empowered by the Local Government authority to enforce the attendance of persons against whom an application is made; it took awayy from village

Registrars the duty of registering instruments which were compulsorily registrable under the Indian Registration Act, 1877, and made it over to the Sub-Registrars appointed under the latter Act; and it amended the limitation section (72) by restricting the special periods therein stated, which had previously been applicable to all agriculturists' suits for recovery of money lent, price of goods sold, on an account stated, or on a written or unwritten engagement to pay.

III.

Opinions expressed in the debates on the Bill of 1879.

21. The debates on the introduction of the Bill of 1879 in the Legislative Council and on its passing into law were remarkable for the many eminent authorities who took part in them, and for the diversity of the opinions which they expressed. Sir Saiyid Ahmad Khan, who was present only on the former occasion, took exception to the provisions for village registration as unlikely to effect the object in view, because the consideration in transactions which are registered is by custom in a large number of cases falsely stated. He did not believe that conciliation was likely to be successful, and thought it would lead to waste of time and harassment to the parties. He took strong objection to the rule compelling the attendance of the defendant in all cases as likely to produce hardship. He apprehended that the provision requiring the Court to search for a defence would encourage defendants to set up false defences, and strongly disapproved of the power of compelling recourse to arbitration on the ground that honest arbitrators were hard to find. He preferred appeals to revision in cases relating to land; and he doubted much whether the new usury law would prove more effective than its predecessors. Mr. F. Cockerell distrusted the special revising agency provided by the Bill, and objected strongly to the insolvency provisions where they differed from the general law. Mr. Whitley Stokes also insisted upon the superiority of the ordinary course of appeal to revision, especially in cases relating to mortgages and other claims to land. He apprehended that the unofficial agency of Conciliators would lead to collusive decrees. Sir Alexander Arbuthnot concurred with Mr. Stokes in condemning revision as opposed to appeal. He thought the provisions extending the period of limitation likely to be useful. Sir Rivers Thompson combated the view that the Civil Procedure Code (as then about to be amended) was not a sufficient law for India in general, and accepted the special legislation only as called for by local circumstances in the Deccan which did not exist elsewhere. Sir John Strachey, on the other hand, thought that there were many other parts of India where the principles of the Bill might advantageously be applied. The Lieutenant-Governor of the Punjab (Sir R. Egerton) also noticed the interesting nature of the experimental legislation, and anti ipated that its working would afford experience for applying similar measures to the Punjab, in many parts of which they were as much required as in the Deccan. Sir Theodore Hope in reply dealt chiefly with the attacks on the revision system, which he defended as absolutely essential to the success of the measure. Lord Lytton in summing up the discussion, defined the following as the main principles of the Bill, which the Government were resolved to maintain intact, while admitting the possibility of compromise in regard to other details :—

There is, in the *first* place, the power to go behind the bond; *secondly*, the necessity for simplifying the procedure; *thirdly*, the augmentation of the number of tribunals; *fourthly*, village registration, to which we attach great importance; *fifthly*, the establishment of Courts of Conciliation; *sixthly*, the extension of the period of limitation; and *seventhly*, the abolition of imprisonment for debt.

Revision *versus* appeal.

At the meeting of the 24th October 1879, when the Bill passed, the discussions turned chiefly on the merits of revision as opposed to appeal. Sir Theodore Hope, Sir Rivers Thompson, Sir John Strachey, and His Excellency the Viceroy supported the former, while the superior merits of appeal were maintained by Mr. Whitley Stokes and Sir Alexander Arbuthnot. The discussion is still pertinent to the issues involved in the continuance of the Act; for Sir T. Hope, and the Members of the Government generally, insisted strongly upon the necessity of maintaining a revision agency of a superior and uniform kind in the Special Judge for whose appointment the Bill provided, and who would be a specially selected and highly qualified officer, instead of trusting merely to the ordinary District Courts, whose revising operations were likely to be intermittent, who might take different views of the same class of facts, and who would be unable to move constantly about the area affected by the Act as the Special Judge should do. On the subject of Conciliators Sir John Strachey spoke as follows :—

Sir J. Strachey on Conciliation.

I myself, more than twenty years ago, advocated in the provinces of Northern India the establishment of Courts of Conciliation; and the opinions which I held then I hold still. I believe that Courts of Conciliation

might be established in the North Western Provinces with very great advantage. If, when advocating the establishment of these Courts, I had been asked "Who can you appoint as conciliators?" or if I were asked that question now, I should reply—"We shall be able constantly to find admirable conciliators in our revenue officers who are, I may say, the natural protectors of the people." I am the last person to doubt, or to deny the immense improvement which has taken place during the last twenty years in the Civil Courts. These Courts have been immensely improved, both in the character and in the acquirements of the Judges, and by the very great simplification of their procedure . . . . . But, in spite of this improvement which has taken place in the Civil Courts, it still remains as true as ever that every measure by which we can keep the people out of the Courts will be a great blessing to the country.

Sir T. Hope on examination of defendant.

Another point in connection with the Bill is of some interest. The Select Committee had excised the second clause which now stands part of section 7, requiring the Court to examine the defendant as a witness unless for reasons to be recorded it deems it unnecessary to do so. Sir T. Hope moved for its restoration : he dwelt upon the enormous proportion of *ex-parte* decrees in the Bombay Presidency* as compared with other parts of India, and in the Deccan Districts in particular; and to the argument against forcing a defendant into Courts, and dragging him away from his home and cultivation at an inconvenient time to answer a suit in which he has no defence to offer, he replied—

* *Vide* paragraph 7, II, ante.

As every man is now by the law of the land liable to be so dragged, under arrest if necessary in order to give evidence in the affairs of other people with which he has no concern whatever, there can be no special hardship in obliging him to come up about a matter of primary importance to himself ; and as to actual arrest on the hardships and indignity of which some sentiment has been expended, this penalty is no more likely to be incurred by defendants than by witnesses, of whom arrests are almost unknown. The knowledge that a summons must be obeyed readily ensures attendance. On the other hand, however, the necessity for a defendant's attendance is, if possible, greatly enhanced by the present Bill. I do not see how it will be possible for a Judge to comply with the requirements of section 12, to receive the defendant's admission, and weigh it so as to decide whether it is true and made with a full knowledge of his legal rights, to go into the history and merits of the case, to ascertain what defence a man may have, even though he is not aware of it, and to follow up the items of the account, unless the defendant be before him.

Sir Alexander Arbuthnot hereupon said that he, and those in the Council who agreed with him, would not oppose this amendment, which was accordingly accepted.

Anticipated results of Bill, especially in regard to management by Collector of debtor's land.

Several portions of Sir T. Hope's final summary of the debate, in moving that the Bill be passed, are of interest in the light of subsequent experience. He looked upon the provision of section 22, making land liable only when specifically pledged, as a measure the result of which could only be ascertained by experiment. On the one hand (as apprehended by some), it might lead to great extension of loans on mortgage, while simple bonds would be unknown ; on the other, it might be anticipated that the debtor would be influenced, by the affection he bore to his land, to defeat his creditor by having recourse to insolvency proceedings. He looked upon the important provision regarding management of the ryot's estate by the Collector (sections 22 and 29) as the "the key-stone or test-point of the Bill :—

If it works well, the ryot's credit will be secured upon a satisfactory basis ; if otherwise, his borrowing even for reasonable purposes, within the limits of his true means will become most difficult, while the alternatives of absolute non-transferability of land or eviction and a poor law will stare us in the face * * * * I myself consider that there need be no fear of failure, provided it be from the first recognized that the duty is important and difficult, not to be performed by mere perfunctory orders, passed on from the Court to the *kulkarni* through an intervening chain of little-heeding functionaries. Success will, I anticipate, lie most frequently in a petty close adherence to the system in Native States, and to the provisions for security and recovery still extant in our law, though of late years little resorted to. If the ryot be retained as cultivator wherever possible, if a reasonable rack-rent be imposed, personal security exacted, precautions taken against making away with the crop, aid given when wanted in securing a fair price, and payment required at the time means are forthcoming, I see no reason why satisfactory results should not be attained. But careful supervision by Assistant or Deputy Collectors and Mamlatdars will be indispensable ; and possibly the appointment of a special officer for a few months to start the system in the four districts might be advantageous. These, however, are details which will, I doubt not, receive full attention from the Local Government.

The Secretary of State sanctions the Act.

22. The Secretary of State (Lord Cranbrook) considered that the Act "fairly carried out the principles laid down in his Despatch of the 26th December 1878" (paragraph 16, *ante*), and left it to its operations ; with regard to the system of conciliation, however, he considered that it could only be properly carried out by a functionary familiar with legal procedure and having some authority, such as that possessed by the *juge de paix* in France ; he presumed that the local Subordinate Judge would as far as practicable be nominated the conciliator in each case. This, however, as will have been seen from paragraph 17 above, was not the view of the

Bombay Government, and Lord Cranbrook's suggestion was not carried into effect experimentally till some time later. A Special Judge was at once appointed under Chapter VII to supervise the working of the Act, and the office has since been continued, with the sanction of the Secretary of State, from year to year. It was held from its commencement till the end of 1885 by Mr. A. D. Pollen, and has been held since then by Mr. M. G. Ranade, who had previously been Mr. Pollen's Assistant under section 52 of the Act.

Sir Raymond West's strictures on the Act, 1881.

23. Among the most caustic critics of the measure while it was still a Bill under consideration was Sir (then Mr.) Raymond West, Judge of the High Court; and when the amending Bill of 1881* was sent to the Court for opinion he seized the opportunity to make a public attack upon the Act, which had then been a year and a half in operation. He declared that in this space of time,—

* *Ante*, paragraph 20.

unless the general opinion was wholly mistaken, the most conspicuous consquence of the Act had been to oust the money-lender from his place by means of a one-sided remedy, which has extinguished credit by making the ryot irresponsible. The whole class of those who furnished capital to the cultivator have, with a very few exceptions, closed their business, and, except where retained by the hope of recovering some portion of the money due to them, or by imprisonment at the suit of their own creditors, they intended to leave the district. Where the money-lenders have bought land or lent on mortgage, an early retreat is impossible, but their former function is no longer performed. As regards the ordinary ryot, the Act, by which it was said "we must foster due credit," has simply extinguished it.

The minute continued with an account of the demoralising effects of the Act upon the defendants, who were "directly and pressingly invited to dishonesty," and the Courts, who were "not merely invited to do injustice, but compelled to do it."

The statistics of the Courts show conclusively the idea of recovering debts from agriculturists through legal proceedings has been abandoned in despair. From 36,000 the suits in the Deccan Districts fell in one year to less than 12,000, and of these only about 2,600 were suits against agriculturists.

Each provision of the law was reviewed in turn, and each was declared to be so defective in spite of "some germs of good") that "the best amendment of the Act would consist in its total and immediate repeal."

Mr. West's strictures were replied to by Mr. Pollen, who observed that the Act had been too short a time in force to admit of its effects being fully judged of, but that the picture drawn, so far as his observation had gone, was not justified by the facts. The decrease in the number of suits instituted was due (1) to the increase in the period of limitation, and (2) to the transfer from the Courts to conciliators of the suits which would otherwise have appeared in the statistics of the former.

The Secretary of State calls for report.

These papers were forwarded by the Bombay Government to the Secretary of State, with an expression of their disapproval of Mr. West's conduct in publishing his minute without their consent. In acknowledging them Lord Hartington, on the 26th January 1882, while regretting the course taken by Mr. West, and considering it by no means advisable to concede his demand for a formal enquiry into the working of the Act so soon after its introduction, asked that the points mentioned by him, and especially the working of the system of conciliation, the registration provisions, and the management by the Collector of a judgment-debtor's land, might be carefully kept in view, and that as soon as sufficient experience had been gained the Government of Bombay should report their definite opinions in detail on the charges brought against the measure by Mr. West.

Bombay Government's report of 1884.

24. This request led the Bombay Government to undertake a special enquiry into the operation of the Act, the results of which were forwarded with a Despatch to the Secretary of State, No. 9, dated the 24th June 1884. This was accompanied by a voluminous collection of papers, consisting of the special report of Mr. Woodward, the Assistant Collector deputed to make enquiry, with the comments upon it of Messrs. Pollen, West and Ranade and of Sir Theodore Hope, and the administration reports for 1882 and 1883 of Mr. Pollen. The questions at issue were than noted on by Mr. Gonne, the Chief Secretary, whose memorandum was forwarded to a Committee consisting of the Commissioner Mr. E. P. Robertson, Mr. J. G. Moore, the Collector of Poona, Messrs. Pollen, Naylor, Woodward and Ranade, and two native Bankers, for consideration. The Committee's report follows, and then a further series of expressions of opinion from various authorities consulted, including a very interesting note from Mr. J. B. Richey, who nine years before had undertaken the enquiry into the riots of 1875. Lastly, the subject was minuted upon by the Members of Government

(Sir James Fergusson, Mr. Maxwell Melvill, and Mr. J. B. Peile), and in their despatch the points specially mentioned by Lord Hartington for enquiry were reported on *seriatim.*

25. The conclusions arrived as to the Act generally were thus statsd by Mr. Melvill, with whom the Bombay Government concurred—

General success of the Act.

We may safely inform the Secretary of State that the Act has been a success, in so far as it enables the Courts to go behind the contract between the parties and to reduce all claims to the amount fairly and reasonably due. It is also satisfactory that agriculturists have been very ready to take advantage of the facilities for bringing redemption suits which are afforded by the Act, and by the remission of stamp-duties in connection with such suits. A great number of ryots, especially in the Satara District, have recovered possession of their lends, though many have, through property, been unable to take advantage of the decrees passed in their favour.

* * * *

The money-lenders do not complain of the investigation into pass transactions, nor of the reduction made by the Courts in the amount of their claims. The average reduction is stated to have been about 30 per cent. on the amount claimed. The sums decreed are probably quite as much as the reditor ever expected the debtor to pay.

What the Sahukars really complain of is that, when they have obtained a decree, it is impossible for them to execute it.

Measures proposed to remedy defects in execution procedure.

The Bombay Government stated as follows the means by which they proposed to remedy the grievances of the money-lenders in this respect.—

We are of opinion that in the great majority of cases injustice is distinctly done to creditors in the matter of the execution of decrees and agreements. Being unable to touch his debtor's immoveable property, which term practically includes his crops, and being also unable to threaten him with imprisonment, a creditor can only rely upon his debtor's inclination for the satisfaction of his claims, even when reduced to strictly equitable proportions. We are of opinion that the Relief Act should be so amended as to place on the Civil Courts the duty of determining whether a judgment-debtor has made every reasonable effort to pay the dues decreed against him, especially when the payment has been made easy for him by an order to pay by instalments; and should a Civil Court find reason to believe that reasonable effort has not been made, it should pass an order for execution, whether by sale of immovable proprety or by imprisoment.

The changes which we propose to make in the Relief Act are the following:—

(1) to empower the Courts to sell the land, cattle, and implements of husbandry of any agriculturist against whom an decree or decrees have been passed under which an amount is due exceeding twenty-five times the assessment of the whole land occupied by such agriculturist;

(2) to introduce an explanation in section 22 of the Act to the effect that standing crops are not immovable property within the meaning of that section;

(3) to add to section 21 the following proviso or one to the same effect:—

"Provided that if it appear to any Court, upon the application of the decree-holder and after hearing the judgment debtor if he appear, and taking such evidence as the parties may produce, that the judgment-debtor has failed to make such payments in satisfaction of the decree as the Court thinks that he ought to have made, or has failed to pay any instalment which he has been directed to pay, the Court may order that the judgment-debtor be arrested and imprisoned under the provisiones of sections 336—43 of the Code of Civil Procedure."

26. Dealing next with the special points referred for opinion by Lord Hartington, they reported that many of the gentlemen chosen as Conciliators were very competent, and that much assistance in the administration of civil justice was to be obtained from them. On the other hand, competent persons for the office of Conciliator could not be found in sufficient numbers throughout the four districts; in 6 talukas out of 37 it had not been practicable to appoint any, and the Special Judge recommended their abolition in 5 more. Of the 36 Subordinate Judges 26 had been appointed to be also Conciliators, as desired by the Secretary of State, and it was proposed to appoint the remainder also; but the Judges had little time to spare from their regular duties, and were not numerous enough to suffice for the work of conciliation throughout the four districts. On the question whether the Franch system could (as desired by the Secretary of State—*ante,* paragraph 22) be completely adopted by appointing no persons to be Conciliators except the Subordinate Judges, the Bombay Government drew attention to a very thorough examination of the subject in a report* by Mr. M. G. Ranade which deserves the attentive perusal of any one who desires to form an opinion on the matter. This report is too long to summarise, and should be read *in extenso.* While it left the Bombay Government doubtful whether the institution of non-official Conciliators should be permanently maintained in the four districts or extended

Conclusions as to conciliation.

* No. 28, dated 11th February 1884 (paragraphs 13—15).

* Not printed in the Selections.

elsewhere, they were yet of opinion that it had been useful in connection with the relief of the Deccan Agriculturist, if only in the matter of assisting Subordinate Judges in the disposal of suits for redemption; that there was no necessity for altering it so long as possible abuses were checked by the present strict supervision; and that it was desirable at present to make no changes that could be avoided.

They were inclined, however, to think that the best *permanent* arrangement would be that advocated by Mr. Justise West, *viz.*, that in place of the conciliation system Subordinate Judges should be required to give the parties a full opportunity of friendly agreement at the first hearing of a suit before any witnesses have been called, the parties being encouraged to adopt this measure by the remission of three quarters of the court-fee in the case of all suits so disposed of. They had addressed the Government of India with the view of this experiment being tried in the eleven talukas where the conciliation system was condemned as a failure; and it may here be stated that on the 24th September 1884 the Governor General in Council authorised the refund of one-half (instead of the three-fourths proposed) of the institution-fee in all suits brought in the Subordinate Judges' Courts in twelve* talukas in which the Court pronounced judgement under section 152 of the Civil Procedure Code.

Substitution for non-official Conciliators of Subordinate Judges with power to remit proportion of institution-fee on agreement of parties.

* One was added to the eleven first proposed.

27. As regards village registration, the original intention of the framers of the law had been to have a registrar, generally the *kulkarni* or village accountant (an officer equivalent to the *patwari* of the North), in nearly every village. This had been found impossible owing to the nferior quality of the agency, which was described by the Commissioner, Mr. E. P. Robertson, as "incompetent, corrupt, and uneducated." In 1882 the Bombay Government substituted for unpaid village registrars special stipendiary circle registrars, each circle embracing several villages.† The new registrars were described by Mr. Robertson in October 1883 as reliable men, in which opinion the Bombay Government concurred, but thought that, as it was not possible to bring the agency within easy reach of every village, the provision requiring registration of all bonds must be a grievous inconvenience to the people. They were therefore of opinion that the first opportunity should be taken for rescinding the part of the Act which makes the registration of simple money bonds compulsory, while they would still retain compulsory registration for all deeds of sale and mortgage relating to immoveable property.

Conclusions as to village registration.

28. As regards the management by the Collector of the judgment-debtor's land, the Bombay Government reported briefly that this provision, as well as those relating to insolvency, had been a dead letter. The reason for the failure of section 22, clause 2, relating to management of the ryot's land by the Collector for the benefit of the crediter, is thus explained by Mr. Pollen in paragraph 31 of this Annual Report for 18-2, one of the enclosures of the despatch :—

Failure of management by Collector (section 22; clause 2).

Under a system of petty holdings the ryot has no surplus lands, and derives no surplus produce over and above what is necessary for the support of himself and his family, and it is only the *surplus* lands that the Collector is empowered to manage for the benefit of the creditor. The ryot who possesses surplus land does not usually figure as defendant in a debt suit, and, if he does so figure, the ordinary law, with the help of an instalment decree, suffices for the realization of the creditor's due. In such a case neither creditor nor debtor would relish the idea of the Collector's management. * * *

As I said last year, the only cases in which the section can be successfully worked are those in which a solvent agriculturist, abusing the privileges of freedom from arrest and from his land being seized in execution, dishonestly evades the payment of a judgment debt.

The reason why the insolvency provisions, from which so much was hoped, had likewise remained inoperative is explained by Mr. Pollen in paragraph 33 of the same report :—

and of Insolvency chapter.

The indifference of the people cannot be altogether explained on the ground of religious scruples, or the fear of loss of credit and social status, though I must admit that more weight should be allowed to these feelings than I was at first inclined to assign. But there are various other considerations which affect the question. In the first place, the Relief Act has conferred so many other privileges and immunities on the indebted agriculturists classes that the necessity of having resort to the extreme measure of seeking relief by insolvency has not made itself so much felt as might have been expected. * * * * In the next place, the debtors are not at all sure of ultimately improving their position by rushing into insolvency. The insolvent agriculturist has little or no land in his actual possession; he may perhaps have a little that will

† The last Registration Report from Bombay shows 155 circle registrars in addition to the 40 taluka registrars, or 195 in all. There are 4,652 villages in the four districts; so that there are nearly 24 villages to each registrar.

yield him a scanty subsistence for part of the year, but the bulk of his land is probably mortgaged with possession to the Sahukars, and he lives in the hope of being able some day or other to redeem that land; but by taking proceedings in insolvency he runs the risk of precipitating the sale of his mortgaged lands. * * * * Then again the proceedings in insolvency are apt to be very complicated, protracted, and tedious, and court-fees and process-fees have to be paid on various occasions. * * * Lastly, to the novelty of the provisions of the law on this subject and to the still prevailing ignorance of the bulk of the people as to their true scope and ultimate effects must be assigned not a little weight as independent factors in contributing to the ill-success of Chapter IV of the Act.

The Secretary of State's reply: general results of the Act.

29. This despatch was replied to by Lord Kimberley on the 6th November 1884. He agreed with the Bombay Government that the Relief Act had on the whole proved beneficial to the agricultural classes of the districts in which it was in force:—

It is shown that cultivation has extended in area since the Act became law; that it has not fallen off in quality; that the revenue is realised as punctually as ever; that it has ordinarily been paid from the produce of the land, not by borrowing or by the sacrifice of agricultural stock; and that, in those tracts which have suffered at once from short harvests and from low prices, the people have struggled against the difficulties of the seasons at least as successfully as they did before the Act was passed. It is the opinion also of officers who possess intimate knowledge both of the working of the law and of the condition of the people that the moral effect of the law has been good; that it has encouraged thrift, prudence, and mutual help. Finally, it is confidently stated that the opinion of the ryots themselves is altogether in favour of the Act; that they have never been more contented than at present; that the people of localities in the vicinity of the four districts desired to be brought under the operation of the Act; and that natives of experience believe that in another ten years the Act will effect a striking improvement in the material condition of the agricultural classes.

His Lordship regarded some of the effects of the Act which had been cited against it as arguments in its favour; such was the diminution of loan transactions shown by the returns of bonds and mortgages: it was not a misfortune that insolvent ryots could no longer obtain loans; such persons ought not to be able to borrow. The returns, again, showed that the proportion of sales by one agriculturist to another had increased, which was very satisfactory. Such experience as had been gained of the effect of scarcity on the working of the Act did not show that it would probably break down in years of bad harvests.

As regards the money-lenders, Lord Kimberley observed that this class must necessarily have been to some extent injured, since the very object of the Act was to relieve the agriculturists from the disadvantages under which they laboured in their dealings with the Sahukars. At the same time it was imperative that the money-lenders should be treated with justice as regards the recovery of debts. The Secretary of State thought it quite clear, as regards the disposal of suits, that while the ryot defendant could now confidently expect success so far as he had a real defence, the Sahukar plaintiff had not to fear a denial of justice. He agreed with the Government of Bombay, however, that some additional facilities were required for the recovery of amounts decreed as due. But of the three proposals set forth above (end of paragraph 25) he strongly objected to the first, which he observed would, in permitting the sale of cattle and implements of agriculture in execution, take away from a ryot in the four districts a protection which is given everywhere in India by the Code of Civil Procedure, and he was not prepared to modify one of the fundamental principles of the Act so as to authorise the sale of land except where specifically pledged; nor would he accept the third proposal, to permit imprisonment when the judgment-debtor had not made a reasonable effort to pay. He observed—

Improvements in execution.

Although a fraudulent debtor should be punished, I cannot think it either absolutely just or consonant with the spirit of the Relief Act that a person in the position of a Deccan rayat should be imprisoned merely for failure in the punctual payment of decreed instalments.

He agreed to legislation for the purpose of removing standing crops from the protection given to immoveable property by section 22, clause I, which he considered the framers of the Act had not intended they should possess.

Management by Collector.

Replying to the Bombay Government's remarks on the failure of the law regarding management by the Collector he observed—

I can quite understand that such management, in the ordinary sense, is usually impracticable. But it has been proposed by two experienced Assistant Collectors, Mr. Lee-Warner and Mr. Jopp, that the Collector should deal with the land of a judgment-debtor in the same way as he deals with alienated *watan* property, that is to say, should levy its full rental from the judgment-debtor, who would still cultivate and maintain himself and his family from it, and should pay the difference between the full rent and the assessment, which I learn from other papers, is usually considerable, into Court, for the benefit of the decree-holder. The creditor would thus

receive, during the period for which the arrangement might be in force, as much as he would do were he placed in possession of the land, since he could not draw from it under any circumstances more than its full rent, less assessment.

Registration.

Lord Kimberley agreed with the proposals of the Bombay Government regarding conciliation (paragraph 26 above), but was not convinced that it was desirable to rescind the provision which makes the registration of money bonds compulsory. He said—

It appears to me that, while the registration of the more important documents which affect immoveable property should be carried out in the regular registration offices, it ought to be possible to provide a registrar in each village, or small group of adjacent villages, sufficiently reliable to be entrusted with the registration of the less important simple money bonds, and thus to prevent the hardship of the registration of the petty transactions requiring a long and troublesome journey.

The amendments in the law approved by Lord Kimberley were carried out, as already noticed (*ante*, paragraph 20), by Act XXIII of 1886. But the modification suggested by him in the procedure under section 22, clause 2, did not prove more successful than the previous attempts made to work that clause.

Enquiry of 1888-89.

30. Since the commencement of the Act sanction to the entertainment of the Special Judge whose appointment is provided for by section 54 of the Act has been obtained annually from the Secretary of state. In sanctioning, in January 1888, the continuance of the appointment for another year, Lord Cross requested that, in the event of a further application being made for its renewal, a special report might be furnished on the subject. With the object of complying with this requirement, and also of considering the advisability of extending the Act as had often been suggested, to other districts, the Bombay Government, on the 25th May 1888, directed an enquiry into the whole working of the measure to be undertaken, and on the 21st June appointed Mr. Woodburn to be the special officer charged with the task. Mr. Woodburn submitted his report on the 27th April 1889; but it was not till the 25th June 1890 that the Bombay Government forwarded it to the Government of India for orders. The three Civil Members of the Bombay Council, His Excellency Lord Harris, Sir Raymond West, and Mr. J. G. Moore, were unable to agree as to the conclusions to be drawn from the enquiry, or as to the practical measures to be undertaken. While Mr. Moore was strongly persuaded that the Act is of the greatest benefit to the agriculturists, and advocated its retention unchanged where it is at present in force and its extension to other districts, Sir Raymond West, though himself an ardent advocate of the purpose which the Act was designed to serve—the protection of the landholder against the money-lender—condemned its machinery (as he had done in 1881) root and branch, and argued from Mr. Woodburn's facts and figures that it had not only done no good whatever, but had left the rayats in a worse position than that in which it found them. Lord Harris was inclined to support the Act in principle, with some important modifications, and its extension, so modified, to other districts.

Defects of the enquiry.

While recognising the labour and ability with which Mr. Woodburn's enquiry was conducted and the usefulness of the statistics collected by him, the Government of India cannot but regret that he was not associated with a Judicial officer in this important and difficult task. His previous experience appears to have been entirely in the Revenue branch of the service, while the questions involved in the working of the Act are essentially in their immediate if not in their ultimate bearing, connected with the procedure of Civil Justice, and the differences established by the special Act, as compared with the general law applicable to the Courts throughout India, afford the matter of enquiry. No one not familiar with the working of the Courts is likely to be able readily to appreciate the bearing of the special law, or to judge how far it operates to the advantage of one or the other party to litigation, or embodies principles which might usefully be made of general application. For this reason the report is defective in those matters on which the Governor General in Council requires information in order to enable him to decide between the conflicting views which divide the Government of Bombay. Nor is the deficiency adequately supplemented by the opinions of Judicial officers appended to the report. It is true that the Judges of the four districts where the Act is in force receive appeals in suits coming under Chapter III (other than suits by an agriculturist for an account) when the amount involved exceeds R100 in the case of a Subordinate Judge of the 2nd class and R500 in the caseof a Subordinate Judge of the 1st class;

but these suits, though they exemplify the process of "going behind the bond," are not tried by the special Small Cause procedure of Chapter II, and it does not appear what proportion they bear to the litigation which comes within the authority in revision of the Special Judge. The District Judges, moreover, see nothing of the Conciliation system of the Courts of the Village Munsifs, or of Village Registration.

Appointment of a Commission.

31. The materials being thus defective, and having regard to the extreme importance of the questions involved in the application of the Act, the Governor General in Council had resolved to direct a fresh enquiry to be made into the working of the measure by a Special Commission, to be composed of the following officers :—

Mr. John William Neill, Judicial Commissioner, Central Provinces, *President.*
Mr. Charles Montgomery Rivaz, Commissioner, Punjab.
Mr. Henry Farrington Evans, Judge, North-Western Provinces,

with whom will be associated two members selected by the Government of Bombay. Mr. Leslie Porter, of the Indian Civil Service, will be Secretary to the Commission.

It has often been pointed out that the Deccan Agriculturists' Relief Act, though in some of its details specially adapted to the districts where it is in force, in its broad principles embodies an attempt to met an evil which presses with greater or less urgency in many other parts of India—the growing indebtedness of the agricultural population, and the gradual transfer of proprietary interests in land from the martial and cultivating classes to the trading and money-lending castes of Hindu society. Not only has its operation been watched with interest in other provinces generally: the Government of India have now before them a definite application from the Lieutenant-Governor of the Punjab for legislation on substantially the same lines for that Province; and the late Chief Commissioner of the Central Provinces in November 1889 submitted proposals for the constitution within his jurisdiction of special courts, empowered to go behind the bond, to enquire into the history of transactions, and to reduce unconscionable interest, in the manner provided by Chapter III of the Deccan Act. It is not, therefore, only with the object of deciding whether the Act shall be retained with or without modification, where it is at present in force, nor even whether it should be extended to other districts in the Bombay Presidency, that the Governor General in Council seeks the assistance of the Commission. It will be their task also to examine how far the principles which may have approved themselves by experience in the Deccan are capable of extension to other provinces where a similar problem presents itself, and are likely to afford an adequate remedy for the evils which are there complained of. Should the Commissioners be of opinion that the measures embodied in the Deccan Act can only be of temporary effect, and afford no lasting solution of this difficult problem of Indian administration they should state what other measures, if any, they would recommend for the purpose. But in the first place it is essential that the question should not be approached mearly upon *à priori* grounds, but that the working of the Act should be scrutinized and studied locally in detail, with the assistance of such persons as are likely to afford the best information as to its practical operation.

Scope of enquiry.

32. The Governor General in Council does not wish to fetter the Commissioners in the conduct of their enquiry. The course of the previous discussions, as summarized in the preceding paragraphs of this resolution, will indicate the expectations which were entertained from, and the apprehensions which were expressed regarding, the working of the Act. It will naturally be the first task of the Commissioners to ascertain how far the results have justified the anticipations. The Act was assailed by some critics as amounting to a denial of justice in its application to existing obligations, and as leading inevitably to the extinction of agricultural credit in the future. On the other hand, it was said that the agriculturist could not get on without borrowing, and that the only result of the restrictions of the Act must be to make the terms harder for the assistance granted. It was alleged that no protective measures of the kind were sufficient to secure the helpless and ignorant agriculturist against the craft of the money-lender, and that after a temporary check the tide of alienation would flow fuller than ever. What answer is afforded by experience to these allegations? For some years past the annual reports have contained figures showing from data supplied by the registry offices the number and value of deeds registered in the four districts; and in the last* review by the Bombay Government of the Special Judge's report it is declared probable "that, now that

* No 4446, dated 20th August 1891.

transactions can be so moulded as to escape prejudice from the special provisions of the Act, the ryots of the four districts will soon accumulate as great a load of debt as they were bearing when the Act was passed for their relief." The following are the figures showing the number and value of deeds registered since 1885, previous to which year only the numbers are given—

Year.	Sale Deeds.		Mortgages.		Simple Bonds.	
	Number.	Value.	Number.	Value.	Number.	Value.
		R		R		R
1885	11,770	17,91,617	23,870	29,84,062	27,914	16,20,224
1886	11,172	16,75,085	24,895	29,08,840	22,703	12,81,264
1887	12,084	14,03,597	26,630	24,75,598	23,549	13,02,689
1888	14,898	18,10,230	33,540	33,28,945	29,095	16,22,127
1889	15,490	18,82,620	41,842	40,59,885	33,097	17,97,645
1890	16,743	19,95,757	42,854	43,65,011	29,542	15,94,490

In the review just referred to the great decrease in simple bonds or money obligations in 1890 as compared with 1889 is said to "indicate the check caused by the stringent provisions of the Act to the more simple and ordinary credit transactions by means of which the daily business of the country is carried on." The table above shows, however, that both in number and amount the money bonds of 1890 were almost the same as in 1888, and it was 1889 that presented exceptional features. It is presumed that, in view of the extremely small extent to which optional registration under Act III of 1877 is resorted to in the Bombay Presidency, almost all the transactions shown under the heading "Simple bonds" are special registrations under the Deccan Act in which agriculturists were concerned. It is not, however, clear whether the other two headings relate only to transactions in which agriculturists were concerned, or include house-property in towns. But the Governor General in Council observes from the Report of the Registration Department in Bombay for 1890-91 that in that year out of 74,970 transactions relating to immoveable property registered under the Deccan Act, 35,586 are said to have been between agriculturists alone, while 39,384 were between agriculturists and Sahukars. In 1889-90 the corresponding figures are given as 33,969 and 37,716 respectively. So far as the sales and mortgages indicate transfer from insolvent to solvent agriculturists, they do not appear to be, at any rate in the Deccan, a subject for regret. It will be the duty of the Commission to examine these figures, to compare them with the condition of things which existed previous to the Act, and to indicate the conclusions to which they point.

33. Turning now to the details of the Act, the first subject on which the Governor General in Council desires to have the opinion of the Commission is the working of the special Small Cause procedure of Chapter II. It has been alleged that the provision of section 7, requiring the defendant to be examined as a witness in every suit, imposes a hardship on defendants, and does not materially affect the issue of the case, since the only reason why a defendant does not appear in answer to a summons is that he has no defence to make. The object of the provision was to compel the Court to confront the parties, and to abolish the extraordinary preponderance of *ex-parte* decisions which formerly distinguished the Deccan Courts (*ante*, paragraph 7, II). Some remarks by Sir T. Hope on the allegation of hardship to defendants are quoted above, paragraph 21. It has been suggested that section 66 of the Civil Procedure Code, which gives a Court power to compel the personal appearance of the defendant if it sees reason to do so, is sufficient. On the other hand, it is argued that a discretion so phrased will very seldom be exercised, and that the natural tendency of Courts will in all cases be to accept non appearance as sufficient evidence that there is no defence. Another suggestion which has been made is that a provision should be introduced into the Civil Procedure Code empowering the Local Government, in the case of specific localities or particularly helpless and ignorant classes, to direct the Courts to require the attendance of the defendant, while the general body of litigation might be left to the rule as now existing.

Compulsory attendance of defendant.

34. The effect of section 10, which prohibits appeals in cases to which Chapter II applies, while an alternative safeguard against error is provided by the system of revision (Chapter VII) was one of the points most disputed when the Act was passed (*ante*, paragraph 21). There is a considerable weight of authority on either side, and the Government of India would wish to

Revision opposed to appeal.

have the matured opinion of the Commissioners on the question. It has been asserted that if appeal is substituted for revision and the system of conciliation abolished, the Special Judge will no longer be required, and the litigation of the Deccan districts may be left to the control, by way of regular appeal, of the District Courts. On the other hand it would seem, from the latest statistics before the Government of India, that in some at least of the four Deccan districts the Appellate Courts are already overburdened with work and find difficulty in keeping pace with the appeals which they now receive. The following statistics are extracted from the Civil Justice Reports :—

District.	Courts empowered to hear appeals.	Year.	Appeals.			
			For disposal.	Disposed of.	Pending.	Pending over one year.
Poona . .	District Judge, Assistant Judge and First Class Subordinate Judge.	1887	584	234	350	109
	District Judge	1888	642	286	356	147
	Ditto	1889	658	258	400	125
Satara . .	District Judge, Assistant Judge and First Class Subordinate Judge.	1887	1,081	492	589	155
	As in 1887, with an Additional Assistant Judge.	1888	1,001	638	363	31
	As in 1887	1889	818	492	326	9
Ahmadnagar .	District Judge	1887	584	248	336	108
	District Judge and First Class Subordinate Judge.	1888	631	343	288	42
	District Judge	1889	584	225	359	101

The appeals from the Sholapur and Bijapur districts appear to be heard by the same Appellate Courts :—

Sholapur-Bijapur.

Courts empowered to hear appeals.	Year.	Appeals for disposal.	Disposed of.	Pending.	Pending over one year.
District Judge, Assistant Judge, and Subordinate Judge.	1887	846	415	431	125
As in 1887	1888	759	422	337	96
	1889	725	312	413	71

The Bombay High Court, however, in their letter No. 2316, dated the 27th November 1890, have expressed the opinion that if the conciliation and village registration systems are abolished, and revision not undertaken except upon application by a party, the District Judges can do the work without other assistance than that of the two special Subordinate Judges now entertained in the four districts. This may possibly be found to be the case, and certainly if appeals are to be substituted for inspection and revision it would be better to leave the work to the ordinary District Courts with such assistance from Subordinate Judges as may be necessary. But the question whether it is safe to trust to the ordinary course of appeal may be found to depend in a great measure upon the extent to which the present equitable jurisdiction in agriculturists' cases is continued to the Courts. It was doubted by the Riots Commission* whether an ordinary Subordinate Judge can be trusted to exercise the difficult and delicate function of going behind the bond and deciding whether interest is reasonable or not (sections 13 and 14 of the Act) without much closer supervision and more constant inspection than is afforded by the ordinary course of appeal. On the other hand the Commissioners will not fail to take into consideration the higher qualifications possessed by the Subordinate Judges of the present day, and the probability that a litigant who considers that he has been treated unfairly will resort to a higher tribunal for redress.

The more recent reports of the working of the Act do not give any sufficient account of the working of the revision procedure as now in force. It appears, however, that the Special Judge and his assistants examined over 60 per cent. of the decisions of Subordinate Courts in

* See their opinion quoted in paragraph 7 I above.

1889 and about 80 per cent. in 1890. In 532 cases in 1889 the parties applied for revision, while only five cases were taken up by the Special Judge of his own motion or on that of his assistants. In 1890 there were 532 applications, and 8 cases taken up in course of inspection. These figures go far to support the theory that appeals will generally be made where there is anything to complain of, and that it is unnecessary to provide for spontaneous interference by a higher Court. The result of the revision cases disposed of is not particularly favourable to the lower Courts: of 593 dealt with in 1889, the decision was upheld only in 382, or 64 per cent., while in 140, or more than 23 per cent., it was reversed, and in 58, or nearly 10 per cent., modified. In 1890, out of 488 disposals, the orders of the lower Court were upheld in 317 cases, or 65 per cent., reversed in 109, or 22 per cent., and modified in 54, or 11 per cent. It will be for the Commission to consider whether, if the special jurisdiction established by the Act, and the special provisions of sections 12—14, be maintained, the supervision of the Courts can with safety be left to the ordinary course of appeal. In coming to a conclusion the tendency of a Judge who is confined to one particular kind of work to fall into a groove, and adopt a mechanical method of dealing with it, should not be forgotten.

Going behind the bond.

35. Chapter III contains those provisions of the law which have given rise to most controversy both before and since it came into force, and which have been regarded in other Provinces as likely to afford suitable remedies against the evils of which they complain. It behoves the Commission, therefore, to examine their working with the utmost care, to consider whether they are just and expedient in themselves, whether they are effective for the purpose for which they were devised, whether they can be applied generally without increasing the work of the Courts to a degree which would render the cost prohibitive, and whether, if approved, they should not be embodied in the general law, or at least made applicable to ignorant and helpless classes of the population everywhere.

As will have been gathered from paragraphs 13 to 15 of this Resolution, it was held when the Act was under discussion that sections 12 and 13 did not materially alter the existing law, as it stood in Bombay under section 9 of Regulation V of 1827, and elsewhere under the rulings of the High Courts regarding bargains made by means of undue influence or fraud and without consideration, and regrading unconscionable stipulations as to interest, except perhaps in shifting the burden of proof. In the debate of the 17th July 1879, Mr. Whitley Stokes asserted "that the Bill, so far as it required the Courts to enter into the merits of money claims, was simply declaratory of the existing law." But by compelling the Courts to do for the defendant that which the existing law left him to do for himself, and by subjecting the process of going behind the bond to fixed rules as to principal and interest and other matters of account, the Act has rendered obligatory and universal that which was before discretionary and occasional; and it is this feature of it which has most challenged criticism. On the one hand, these provisions have been condemned by Sir R. West in the words quoted above (*ante*, paragraph 23) from his minute of 1881, a charge which is reiterated and further developed in his observations on Mr. Woodburn's report. On the other, we have the conclusion at which the Bombay Government arrived in 1884, after a special enquiry directed to this very point, that these provisions had been a success, that claims had only been reduced to the amount fairly and reasonably due, and that the money-lenders did not complain of the investigation into past transactions, nor of the reduction made by the Courts in the amount of their claims. Mr. Ranade has shown in his recent reports that as old claims are exhausted the effect of enquiry into past transactions in reducing the amount awarded becomes annually less. In ordinary money claims the investigation in 1890, in the cases where enquiry was made, reduced the amount by 26 per cent. against 30 per cent. in 1889. But, although the letter of the Act would seem to require this, it must not be supposed that in practice enquiry is made in every case, or even in every contested case. The report shows that in 1890 the number of money claims brought against agriculturists was 2,022; of these only 741 were contested, and in only 284 was past history examined. In suits for foreclosure or sale of mortgaged property, of which 921 were disposed of in 1890, only 438 were contested, while in 196 only was past history examined. In these the examination resulted in an abatement of only 19 per cent., against 24 per cent. in 1889.

It seems probable, therefore, that the effect of these apparently drastic sections, the most distinctive feature of the Act, diminishes rapidly after the law has been some time in operation, and that they are chiefly of use at the commencement, when they reduce to moderate proportions a load of accumulated debt. If the report of the Deccan Riots Commission and the conclusion of the Bombay Government in 1884 may be trusted, they must have done this without injustice to the Sahukars.

36. Two suggestions have been made for the modification of the general law with reference to these provisions. It has been mentioned above (paragraph 14) that the High Courts have held that Act XXVIII of 1855, which repealed the usury laws, did not affect the Hindu laws as to the rate of interest, or, it may be added, the equitable jurisdiction of the Courts to reduce unconscionable rates. Section 2 of that Act is, however, so worded as to lead ordinary Courts to suppose that, when a rate of interest is stated in a bond signed by the defendant, the Judge is bound to decree interest at that rate. It is suggested that the Act should be amended so as to make it clear that, in considering the validity of the agreement to pay interest at the stipulated rate, the Courts are bound to take into consideration the possibility of undue influence, coercion, fraud, or misrepresentation. It is possible that the definitions of these reasons for holding contracts invalid given in sections 15—18 of the Evidence Act may also require some reconsideration so as to include the taking of undue advantage of a debtor's simplicity or necessities.

Modification proposed in general law relating to interest.

37. The other suggestion relates to the shifting of the burden of proof in cases where there is obviously a great disparity in the intelligence and circumstances of the parties. An example of such shifting is afforded by section 111 of the Evidence Act, 1872; and the following sections, based upon the same principle, have been proposed as additions to that Act :—

Amendment suggested in the Evidence Act as to burden of proof.

Section 92, proviso 1-A.—"In any action founded upon a written contract for the payment of money, if the Court has reason to suspect that the true consideration for the contract is other than that which appears upon the face of the document, it may, if it shall think fit, require the plaintiff to prove his case by evidence independent of the document."

Section 111-A.—"In any action founded on contract, if from all the circumstances of the case the Court is of opinion that the parties were not at the date of the contract upon equal terms with respect thereto, it may, if it shall think fit, require the party with whom the advantage lay to prove the good faith of the transaction."

The Governor General in Council would be glad to receive the opinion of the Commission upon these suggestions. The contention is that no Court should be required to go behind a bond or open up the past history of the transaction until some unfairness or inequality has been established, or at least made probable; and that where such unfairness or inequality has been established, it should be part of the general law, and not a special provision with a mere local application, that the party which had the advantage should prove the fairness of the transaction.

38. There is very little information in the recent reports as to the effect of section 15 giving power to compel recourse to arbitration. In 1889, 25 suits coming under Chapter II of the Act are shown as referred to arbitration, but in 24 of these the defendant was not an agriculturist, and they did not therefore fall under the section. In 1890, all the 7 suits referred to arbitration had non-agriculturist defendants. It may therefore be presumed that the section is practically a dead letter.

Compulsory recourse to arbitration.

39. Sections 15-A, 15-B, 15-C, and 15-D relate to mortgages, and were added by Act XXII of 1882 upon the High Court holding that sections 16 and 17 did not apply to suits for an account of money lent on mortgage, or empower instalments to be fixed in payment of such a debt. They were, however, within the intention of the framers of the Act. It appears evident that the working of these sections must have materially aided in the great diminution of old mortgage debt which has been the most conspicuous result of the special legislation, and it would also seem from the statistics quoted in paragraph 32 that the sections have not operated as a restriction on the conveyance of land by mortgage. The Commissioners are requested to consider whether these sections have worked any injustice to creditors, and whether there would be any objection to their extension, or at any rate the extension of sections 15B, C and D, to agricultural mortgages generally.

Provisions relating to mortgages.

40. Section 19 has frequently been reported to be inoperative, as also section 22, clause (2), and the whole of Chapter IV (Insolvency). It does not therefore seem necessary to retain them in any modified form of the Act which may be applied elsewhere, either within or without the Bombay Presidency, should any such application be recommended.

Inoperative provisions of the law.

Instalments.

41. Section 20 differs from section 210 of the Civil Procedure Code only in that the latter section requires the consent of the decree-holder to any order for instalments made after the passing of the decree. The Commissioners are invited to express their opinion whether the latter section is not sufficient. The reports appear to indicate that the power to order instalments is sometimes abused. In any case it should be considered if an alteration of the terms of a decree intended to be final can be justified except on the ground of a change of circumstances since it was passed.

Imprisonment for debt.

42. Section 21 protects agriculturists from arrest or imprisonment far debt. Since the Act was passed, the Debtors Act of 1888 has altered the general law on the subject, and the Governor General in Council is inclined to think that there is now no reason for maintaining this provision in the Deccan Act; but he will be glad to receive the views of the Commission on the question.

Protection of land not specifically pledged from sale in execution.

43. Section 22, clause (1), as modified in 1886, protects immoveable property from attachment and sale in execution except when specifically pledged. On the one hand, it has been urged that the effect of this restriction is to lead to a great extension of mortgage debt (a theory to which the figures quoted in paragraph 32 lend some support), since all debts will be so secured; on the other, it is argued that to make land liable for debts not specially charged upon it is to import a liability which was not contemplated by the parties, and that at the time he incurs the obligation a borrower ought to have clearly presented to him the consequences which his act may entail. What was thought on the subject by the members of the Deccan Riots Commission of 1875 is shown above in paragraph 7, head III, but there can be no doubt that since then it has become more widely known that a man's landed property is liable to attachment and sale for the satisfaction of his debts. The Governor General in Council will be glad to receive the advice of the Commissioners as to the application of this section to other parts of the Bombay Presidency and others provinces of India. Where it is already in force it does not seem necessary to disturb it, as unsecured loans must have been advanced with a full knowledge that they could not be recovered from the land.

Attachment and sale of standing crops.

Vide pages 81-82 of Sir R. West's "Observations."

44. It has been suggested that the exception of standing crops from exemption from attachment, which was effected in 1886, has led to oppression of the ryot and waste of the crop, which, after attachment, is no longer watched and guarded by the cultivator; and the proposal has been made by the District Judge of Ahmadnagar that "one-half of the standing crop, after deducting the part attached or required for payment of assessment, should be exempt from attachment to prevent lands going out of cultivation and to enable the agriculturist to recover the actual cost of cultivation."

Vide paragraph 29 in each of these reports.

It does not appear from the statistics given in the Special Judge's reports for 1889 and 1890 that applications for attachment often result in sales. In about half the cases the applications were infructuous, the crops being removed before attachment could be made; but where it was made, it generally resulted in prompt settlement of the decree. In 1889, 172 cases of attachment occurred, and in only 13 was the Collector asked to proceed to sale of the crop. In 1890, out of 153 cases of attachment, sales took place only in 8. The Government of India would be glad to learn whether the Commission think any modification of the section advisable.

Village Munsifs.

45. The institution of Village Munsifs (Chapter V of the Act) was borrowed from Madras, and both in that Presidency and Bombay its working has recently been enquired into by Mr. H. F. Evans, who was last year deputed by the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh to ascertain whether the system might not usefully be introduced in those Provinces. The Governor General in Council observes a misapprehension in much of the criticism to which this part of the Act has been subjected. Sir R. West condemns it, because "in practice it has little or nothing to do with agriculturists;" and in paragraph 11 of the Bombay Government's review of the Annual Report for 1890 the Munsifs are again spoken of as "not an important agency in the relief of agriculturist debtors." It will, however, be clear from the quotation from Sir Richard Temple's Minute of April 1879, cited in paragraph 17 of this Resolution, that it was never contemplated by the framers of the Act that Village Munsifs would afford relief to indebted agriculturists: the object of this class of tribunals was to relieve the regular Courts of pretty cases under

R10 in amount, and thus enable them to devote themselves to more important work. It was never anticipated that *patels* and others qualified to undertake the office would be found to be numerous; but it does not appear from the recent reports that the institution has failed of its purpose. In 1889, 91 Munsifs disposed of 7,245 cases, and in 1890, 88 Munsifs dealt with 7,291 cases, and so far as appears from the reports the work was done in a satisfactory manner The only objection to the system (apart from the question as to the competence of the persons selected for the office) which the Governor General in Council has heard is that petty village Courts encourage suits to be brought which would otherwise never be brought at all; but considering the experience in Madras, where the institution is very old and commands the confidence of the people, this objection does not seem to be of much weight. His Excellency in Council will, however, be glad to have the opinion of the Commission on the subject generally, and in particular whether, if such village Courts are recommended, they should not be constituted under a general Act, quite irrespective of the subject of agricultural indebtedness. His Excellency in Council would here state that he is not inclined to view favourably the proposal which has been made to entrust such petty jurisdiction to ministerial officers of the Subordinate Courts.

Conciliation.

46. One of the most important Chapters of the Act is that dealing with conciliation, and it is also one of those in regard to which most difference of opinion exists. It has always been urged by Mr. Ranade that, without the assistance afforded by the Conciliators, the Subordinate Judges would be overwhelmed with work; on the other hand, the Bombay Government regard the relief thus afforded as insignificant, because it is alleged that the Conciliators only take off from the Courts cases which would not be contested. Several different opinions on this subject have been noticed in paragraphs 17, 21, 22, and 26 of this Resolution, and it is not necessary to repeat them here The Governor General in Council desires that the working of the institution may be carefully examined by the Commissioners, and that he may be placed fully in possession of their opinion in regard to it and also with referrnce to the alternative scheme at work in 12 talukas and described in paragraph 26 of this Resolution, whereby one-half of the institution-fee is remitted in suits before Subordinate Judges when the parties come to an agreement at the first hearing. Is there any evidence that conciliation is now used for the purpose of effecting collusive agreements in fraud of the stamp and registration laws—a practice apprehended by Mr. Whitley Stokes at the debate of the 17th July 1879, and found actually to exist by Mr. Pollen in 1882 (paragraph 51 of his report for that year)? Do the Conciliators follow any mechanical rule in dealing with cases which come before them? Do they strike off a percentage arbitrarily? A fair number of their proceedings and the reasons for them should be investigated in view to determining these preliminary questions. In considering the subject of conciliation the Commissioners will doubtless take note of Mr. Ranade's valuable report of February 1884, and will have the assistance of that gentleman in their enquiries.

Vide paragraph 26 of this Resolution.

Village registration.

47. Village registration under Chapter VIII is another part of the Act which is alleged to have failed The reasons have been indicated above (paragraph 27). The agency which the framers of the Act had in view was found to be incompetent and corrupt, and the actual Village Registrars are merely additional Sub-Registrars of the ordinary type found everywhere in the country. Their number is not sufficient to make them easy of access to all persons requiring an instrument to be written, and it is alleged to be a hardship to require all money bonds entered into by agriculturists to be written or registered by them. It has also been stated that such registration affords no guarantee whatever that the consideration has been truly recited, but only that the bond is not a forgery, and the debtor has chosen to admit the truth of the recital contained in it.

The imperial returns of registration under Act III of 1877 show that the Bombay Presidency generally is far behind the other greater Provinces in respect of the popularity of of registration, and that optional registration in particular is very little resorted to. This appears to be partly due to the scanty staff of registering officers, of whom there are only 179* outside the four Deccan districts, where there are 195. The Bombay Government have recently agreed to the extension to that presidency of the Transfer of Property Act, 1882, which will have the effect of virtually abolishing optional registration in the case of documents affecting

Vide Review by Government of India in Resolution No. 6—259—271, dated 17th February 1891.

* District Registrars are not included. They do hardly any registration.

land; and perhaps the Commission may think this sufficient protection for the agriculturist. At the same time the Government of India would regret the disappearance of the statistical information regarding obligations contracted by agriculturists which is afforded by the returns under the Act. It will be an interesting object of enquiry to examine whether the anticipation expressed by Sir J. B. Richey in his note of 23rd May 1884, that the requirement of registration for bonds given to Sahukars would lead to the substitution of accounts for bonds as the cause of action, has in any degree been realized. If it has, it would seem to be a very beneficial result of the system. The deficit on village registration is shown in the last Bombay Registration Report (that for 1890-91) at R12,817, or including books and forms R16,042; a slight enhancement of the fees charged (which already amount to over R45,000) would probably render this part of the system self-supporting.

Accounts and Receipts.

48. Little information is afforded by the reports as to the working of Chapter IX, relating to receipts and statements of account. It will be remembered that this (*ante*, paragraphs 7 and 9) was one of the measures thought by the Riots Commission of 1875 likely to be most useful. Sir R. West considers it "of no importance," and points out that the requirement of a receipt for every payment appears to be attended with a counterbalancing danger, in that without a receipt payment cannot be proved. The Chapter leaves it to the agriculturist to prosecute for failure to comply with the requirements of the law, and it is easy to understand that prosecutions have not been numerous; they have ranged between 40 and 60 annually within the last six years. Convictions are rare, but the majority of cases end in a compromise, which implies that the complaint was not without some foundation. It would seem from the continuance of prosecutions that the provisions of the law must be gradually becoming known, and this in itself is of value. The prosecutions have always related to receipts; the rules regarding pass-books and annual statements of account are said to be a dead letter. The Commission should report whether they recommend the retention of this Chapter.

Page 91 of his "Observations."

Limitation.

49. The only other provision of the Act which calls for notice is the rule as to limitation in section 72. It has been seen above (paragraph 7, head V) that the Riots Commission thought that the shortening of the period from twelve years to three (or six if the bond was registered) by the Act of 1859 had caused considerable hardship, but they did not recommend the extension of the term except in so far as this was involved in getting all bonds registered. Sir Philip Wodehouse (paragraph 12), however, urged the restoration of the old term of twelve years, but Sir Richard Temple (paragraph 15) did not think this necessary if the other modifications in the law proposed by him were carried out. It was nevertheless adopted by Sir T. Hope in drafting the Bill, and has since stood part of the Act. There is very little information as to the working of this provision. Sir R. West considers that it affords no real protection to the debtor as the other provisions of the law compel prompt suits. He points to the anomaly of having a special period of limitation for particular classes of debtors, and urges a uniform term of limitation of six years for all ordinary debts without regard to registration. The extended period given to registered bonds by the general law was no doubt intended as an inducement to register; but, if it be the case that the law compels suits to be promptly brought, the extension cannot be taken advantage of and the inducement fails. Under the Deccan Act all bonds must be registered, but it is doubtful if a suit is ever deferred till the twelve years are nearly at an end. The opinion of the Commission is desired as to whether there is any sufficient reason for maintaining an exceptional law of limitation for this one locality, or for extending it elsewhere.

Conclusion.

50. The Governor General in Council has now noticed all those provisions of the law to which he desires to invite the special attention of the Commissioners. The members of the Commission will be supplied with a collection of correspondence relating to the Act, and His Excellency in Council hopes that, in view of the extensive information contained in these papers and reports, they will find the examination on the spot of the questions at issue much facilitated. The Governor General in Council trusts that the Commission will be able to submit their report by the month of April 1892. It should be furnished direct to the Government of India, but a copy should at the same time be transmitted to the Government of Bombay.

ORDER.—Ordered, that a copy of this Resolution be forwarded to each member of the Commission for information and guidance, and to the Government of Bombay for informa-

tion. The Governor General in Council requests that the Governor of Bombay in Council will be good enough to facilitate the enquiries of the Commission, and will give the necessary instructions to the officers whom they may wish to consult.

[True Extract.]

C. J. LYALL,

Secretary to the Government of India.

From—L. A. S. PORTER, Esq., Secretary, Deccan Agriculturists Relief Act Commission, to the Secretary to the Government of India, Home Department,—No. 146, dated Poona, the 1st April 1892. No. 62.

I have the honour to solicit the instructions of the Governor General in Council under the following circumstances:

2. In paragraph 31 of the Resolution, appointing the Commission to enquire into the working of the Deccan Agriculturists' Relief Act, it is laid down that not only are the Commission to consider whether the Act shall be retained, with or without modifications, where it is at present in force, and whether it should be extended to other districts in the Bombay Presidency, but " it will be their task to examine how far the principles which may have approved themselves by experience in the Deccan are capable of extension to other Provinces, where a similar problem presents itself, and are likely to afford *an adequate remedy* for the evils which are there complained of."

3. A doubt has now arisen as to the actual scope of these instructions. The Commission are uncertain whether they should make themselves acquainted with the representation of agricultural indebtedness and its causes that has been made by the Governments of other Provinces so that they may express an opinion whether principles which they believe to have approved themselves in the Deccan, or such others as they may be prepared to suggest, are likely to approve themselves in other Provinces also, because the state of things is similar and the causes which have led to that state of things; or whether they are to confine themselves mainly to the aspects of the question as it presents itself in the Deccan, and report how far those principles contained in the Act, which have been approved by experience, are not merely of purely local application, but may with advantage be utilised—though not necessarily offering of themselves a complete remedy—for the relief of agricultural indebtedness in other parts of India.

4. In any case, it would not be possible for the Commission to do more than recommend the application of principles, for it is clear that no adequate relief measures can be suggested with any confidence which are not based upon an accurate and complete knowledge of the extent and causes of agricultural indebtedness, and of the social, economic and intellectual condition of the agricultural classes. It is not only possible but probable that these causes and this condition vary from Province to Province.

5. If it is the desire of the Government of India that the Commission act as described in the first part of paragraph 3, I am to request that such Local Governments and Administrations as have this problem to deal with may be asked to furnish the Commission direct with the papers containing a proper presentation of the subject.

6 The favour of a very early reply is requested.

From—C. J LYALL Esq., C. I. E., Secretary to the Government of India, Home Department, to the Secretary, Deccan Agriculturists Relief Act Commission,—No. 492, dated Simla, the 14th April 1892. No. 63.

I am directed to acknowledge the receipt of your letter No. 146, dated the 1st April 1892, asking for the instructions of the Government of India as to the extent to which the Report of the Deccan Agriculturists' Relief Act Commission should deal with the problem of agricultural indebtedness in other provinces and in reply to say that the second alternative course stated in paragraph 3 of your letter (quoted in the margin) is that which should be adopted.

" They are to confine themselves mainly to the aspects of the question as it presents itself in the Deccan, and report how far those principles contained in the Act, which have been approved by experience, are not merely of purely local application, but may with advantage be utilised—though not necessarily offering of themselves a complete remedy—for the relief of agricultural indebtedness in other parts of India."

Telegram from the Secretary to the Government of India, Home Department, to the Secretary to the Government of Bombay, Judicial Department,—No. 1092, dated the 24th August 1892. No. 64.

Government of India will be glad to receive, as early as practicable, observations of Governor in Council on Deccan Relief Act Commission's Report,* a copy of which has been

* Not printed with this Selection.

sent to Bombay Government by Porter. Governor General in Council considers it desirable that Report should be given to the Press in order to elicit opinion of the public. It is proposed to do this at once if Bombay Government see no objection.

No. 65. Telegram from the Secretary to the Government of Bombay, Judicial Department, to the Secretary to the Government of India,—No. 369 P., dated 23rd August 1892.

Your telegram 1092, dated August 20th. India's Notification 1577, December 3rd, 1891, appointed Commission to enquire into and report upon the working of the Deccan Relief Act. Instruction paragraph 31, onwards, in Resolution of November 20th, 1891, expressed same object, constitution of Commission essentially judicial. Mr. Porter's letter 75, dated February 9th, 1892, asked for witnesses as to working of the same Act and its effect upon the people, because the issue was thus narrowed to a matter on which this Government had fully expressed its opinion. It thought it proper not to select witnesses, but to promise the attendance of those whom the Commission might select. In these circumstances, the copy of the Report signed by the Secretary has just been received, and this Government find that Part 3 deals with the Land Revenue System of the presidency and executive reform. It observes that not one single Covenanted Revenue officer, nor one Survey officer, was examined as a witness, and yet Mr. Porter's Report contains an attack upon the Bombay revenue system, which this Government had no reason to suppose would be passed under review by the Commission constituted for examining the working of the Act with special reference to its judicial aspect. It appears, therefore, to this Government premature to publish Part 3 before the officers who understand the system have had an opportunity of explaining it and correcting erroneous inferences upon which your telegram proposes to elicit the opinion of the general public. As to number of copies required a further telegram will be despatched.

No. 66. Office Memorandum No. 1113, dated Simla, the 25th August 1892.

The undersigned is directed to forward a copy of the Report of the Commission appointed to inquire into the working of the Deccan Agriculturists' Relief Act, and to request that the subject-matter of Part III of the Report, which deals entirely with the revenue aspect of the question, may be considered by the Revenue and Agricultural Department without waiting for the consideration of Parts I and II in the Home Department.

2. The undersigned is to enquire how many copies of the report will be required by the Revenue and Agricultural Department.

P. G. MELITUS,

Offg. Deputy Secretary to the Government of India.

To the Revenue and Agricultural Department.

No. 67. From W. Lee-Warner, Esq., C.S.I., Secretary to the Government of Bombay, to the Secretary to the Government of India,—No. 398-P., dated Bombay Castle, the 6th September 1892.

I am directed to acknowledge the receipt of your telegram No. 1092 (Judicial), dated the 20th ultimo, relative to placing before the public the Report of the Commission on the working of the Deccan Relief Act.

2. I am to remind you that Mr. Porter forwarded only one single copy of the Report and that an opportunity of examining it has not yet been afforded to the several departments of this Government concerned. But it appears that in Part III the Commission have undertaken a review of the revenue system, and discussed the necessity for executive reform; and inasmuch as the report opens with a statement in paragraph 5 that "the Government of Bombay considered it undesirable to nominate any witnesses," it is not improbable that the public will attach to the criticisms of the Commission in Part III a value which they are hardly able to claim. I am therefore to explain that, in the orders of the Government of India constituting the Commission to inquire into the working of the Act XVII of 1879, and in the invitation addressed by the Secretary to this office on the subject of witnesses as to the operation of that enactment, there was nothing to indicate to this Government that the Commission would go beyond the terms of their appointment, or discuss the revenue system of this Presidency. Had such a course been anticipated, this Government, recognising the constitution of the Commission as composed almost entirely of Judicial officers, would not have placed it at the disadvantage under which it has laboured in discussing executive matters.

The witnesses examined by the Commission, which was informed that it might summon and examine any Government officers, did not include a single Revenue Commissioner, or Collector of a District, nor was any Assistant Collector or officer of the Survey and Settlement Department examined by it.

3. Turning to the four specific administrative measures recommended by the Commission as the outcome of these consultations, I am to observe that they will in due course receive the careful consideration of this Government. In the meanwhile, I am to offer the following remarks upon them. The main recommendation is that "suspensions of revenue should be granted as a matter of course in bad years"—in other words the proposal is for reversion to a system tried and found faulty, and eventually superseded by that now in force. At present suspensions are given at the discretion of the responsible officials to meet the stress of circumstances. The proposal made is to make suspensions the rule. It is therefore desirable to consider their probable frequency and their results. In paragraph 66 the authority of Mr. Ozanne is quoted to the effect that out of every eleven years, five or six are bad, and the rest either good or middling. The financial effect on the finance of India of fluctuations in the collection of revenue under such conditions needs no argument; but i is probable that the Commissioners have overlooked some other results of their proposal. In the first place there would be uncertainty of demand arising from the different applications of the rule by different Collectors: then there would be the cost of increased establishment which the necessary crop inspections would involve. The unsettlement of rural society with its consequent intrigue and corruption, and the sacrifice of the lesson in providence, which the present system has ensured, would be a further consequence of such a change.

4. But where so important a charge of system is involved the reasons must by examined. They are thus stated: "It seems obvious that a revenue system which aims at securing a fixed annual payment is unsuited to such a country." Elsewhere the system is described as rigid. It appears to this Government that if the members of the Commission had called for evidence on the point, they would have appreciated the fact that a system of collection may be rigid without the system of revenue administration being open to that charge. In fixing their attention on the operations of the Collector, the Commissioners have overlooked the previous operations of the Settlement Officer. The alterations of good and bad seasons, and the need for an abatement of revenue to accommodate a full rent in a year of rainfall to a low rent in a time of scarcity, have been recognised and discounted by the Settlement Officers. For the compensation to the so-called rigid system of collection, the critic must look to the preliminary operation of grouping tracts and assessing fields preformed by the Settlement Officer. Calculations may, however, fail, and for this a further recognition of the factor of fluctuation is provided by the discretionary power of the Revenue officials to grant suspensions and of Government to grant remissions. The proposal of the Commission is first to discount the ordinary fluctuations of the season in the calculation of the assessment, and then again to give suspensions as a "matter of course" in every bad year. It is clear that the remedy is proposed in the interests of the ryot, but when discussing the record of rights, the Commission observe that "at present the money-lender often prefers to remain the virtual but not nominal owner." It is not apparent why the capitalist having already gained by a low rent, fixed for 30 years, in seasons of plenty should "as a matter of course" obtain suspensions in five or six out of eleven years. It is further argued that the State is a better creditor than the money-lenders in helping the ryot to tide over the constantly recurring bad seasons. But there remains the question whether the State would be an equally good collector of arrears; and Mr. K. L. Nulkar completes the proposal of the Commission by advocating the "eventual remission of old arrears proved to be irrecoverable."

5. The Governor in Council does not, however, desire me here to criticise this recommendation at greater length. Without these observations he fears that the publication of the report may encourage expectations which the Government of India will not be prepared to realise. The omission of this Government to offer witnesses would have been misunderstood without reference to the fact that it never anticipated that the Commission would, on the evidence before them, attack a system which has received the well-nigh unanimous support of the local Revenue officers during the last 40 years, including Sir Barrow Ellis, Mr. Erskine, Mr. Pedder, Sir James Peile, Colonel Coussmaker Anderson, Mr. Theodore Stewart and others who have made a special study of the question. It is a system, moreover, which has been deliberately selected by the Government of India for introduction into the Berars, and by first class Native States like Kolhapur.

6. The recommendation of the Commission that suitable dates for the payment of revenue instalments should be fixed is cordially endorsed by this Government; but the

question of what dates are the most suitable is not easily determined. At present the Governor in Council is not able to state that the present dates are not on the whole most convenient to all parties, but the recommendation, as it stands, is too obviously reasonable to be challenged. The two other recommendations that the crops attached should be sold standing, and that a correct record of proprietory rights should be prepared and maintained, require further detailed examination. In regard to the latter suggestion the question of cost must be examined, and the Governor in Council would have been glad if the Commission had made him acquainted with its intention to discuss these subjects that might have suggested to them sources of information and inquiry, in order that their recommendations might have been expressed in greater fulness.

7. In conclusion, I am to state that this Government sees no objection to the publication of the Report and the invitation of public criticism, but he considers that it will remove any misunderstanding if the Government of India should see fit to attach to it a copy of this letter.

From P. G. MELITUS, Esq., Offg. Deputy Secretary to the Government of India, to the Secretary to the Government of Bombay, Judicial Department,—No. 1277, dated Simla, the 4th October 1892. No. 68.

With reference to the correspondence ending with your letter No. 398 P., dated the 6th ultimo, I am directed to request that the Bombay Government may be moved to favour the Governor General in Council, at as early a date as possibile, with their observations on the recommendations contained in the Report of the Deccan Agriculturists' Relief Act Commission. The Government of India now have the Report under their consideration, and are anxious to take action upon it without any avoidable delay. They therefore hope that the Governor in Council will be able to place them in possession of his views in time to admit of the necessary measures being matured during the coming cold weather.

2. I am also to remind the Bombay Government that the existing sanction* for the continuance of the appointment of Special Judge under the Deccan Agriculturists' Relief Act extends only to the 4th January next. It is presumed that if the recommendation of the Commission that the ordinary course of appeal should be substituted for revision in the districts concerned is adopted, the further retention of the Special Judge's services will not be necessary.

* *Vide* Home Department communication No. 1707, dated 28th December 1891.

From W. LEE-WARNER, Esq., C.S.I., Secretary to the Government of Bombay, to the Secretary to the Government of India,—No. 6221, dated Bombay Castle, the 8th November 1892. No. 6

I am directed to acknowledge receipt of your letter No. 1277, dated the 4th of October, and to state in reply that the Governor in Council has called for reports from certain officers and departments which he has found it necessary to consult in view of the important issues involved, and will lose no time in submitting his observations on the recommendations contained in the Report of the Commission appointed to inquire into the working of the Deccan Agriculturists' Relief Act.

2. In the meantime I am to request that the sanction of the Secretary of State may be obtained to an extension of the appointment of the Special Judge under the Act after the 4th January until the final orders of the Government of India are received upon the Report of the Commission.

From—W. LEE-WARNER, Esq., C.S.I., Secretary to the Government of Bombay, Judicial Department, to the Secretary to the Government of India,—No. 1477, dated Bombay Castle, the 8th March 1893. No.

I am directed to reply to your letter No. 1277, dated the 4th of October 1892, requesting this Government to submit its observations on the recommendations contained in the Report of the Deccan Agriculturists' Relief Act Commission. It would have been a satisfaction to this Government if it could have complied with the request at an earlier date; but in view of the necessity for consultation with the High Court and certain Government officials, as well as of the extreme complexity and difficulty of the subject, the Governor in Council has been obliged to give the matter such careful consideration as has entailed the unavoidable delay that has occurred.

2. The subject of agrarian indebtedness, both as to its causes, its extent, and the consequent expediency of providing legislative measures for its relief, is one on which opinions have

* Not printed in the Selections.

always differed and must continue to differ, and such differences of view must necessarily be reflected in the decisions of Governments which, as constituted in this Presidency, are altered more frequently than every five years. No attempt need therefore be made to justify a want of agreement or consistency in the several views that during the past fifteen years have been put forward by this Government, which, even since the despatch of my letter No. 3356, dated the 25th June 1890, has lost the services of two of its Members of Council. It is inevitable that there should be inconsistencies between the opinions expressed in the past and those which now commend themselves to its judgment. It is equally difficult for this Government to agree unanimously either as to the effects of the special Acts, or as to the measures which should be taken in the future. Such an agreement might be arrived at by a compromise; but at the present stage it seems better that, in expressing its opinion upon the detailed recommendations of the Commission, the views of the Members of this Government, where they are not in agreement, should be stated for the information of the Government of India. Such a course seems the more desirable, because on the most important practical issue the Governor in Council is agreed that a solid argument for the continuance of the Acts exists in the fact that they have been introduced and in force for 14 years, and that no change should be made in the law affecting the four Deccan Districts without proof of gain from the change indicated.

3. The inevitable differences of the point of view from which the Deccan Relief Acts are examined must of necessity lead to a divergence of views on several sections, as, for instance, on Section 3, and even on the effects attributed to the influence of the Acts. The point of view from which His Excellency the Governor regards tho Deccan Agriculturists' Relief Acts was indicated in his minute, dated the 28th May 1890, forwarded with my letter of the 25th of June 1890. Starting from that point of view, which is but slightly modified by the full report of the Commission, His Excellency would not extend to non-agriculturists a special relief devised to meet an agrarian disturbance and to benefit the cultivating classes. On the other hand, the Honourable Mr. Trevor cannot regard the Relief Act as exclusively devised for one class of the community, but rather as an experimental departure of the legislature within a limited area from the application of principles the suitability of which to Indian rural society had been seriously challenged. Mr. Trevor considers it the duty of Government to prevent the Courts of law from being used as instruments for the enforcement of inequitable or extortionate demands against debtors, whether engaged in cultivation or in other pursuits. Regarding the agricultural population as the most important class in the country and recognising their passionate attachment to the soil, he would delay the process of expropriation by every legitimate means. The intention of the legislature was, in his opinion, to put to a practical test the application of certain modifications of the general law to a limited tract of country, and the experiment should be continued till a final judgment can be formed. On the other hand, His Excellency the Governor has expressed, in the minute referred to, his conviction that the laws of self-interest and political economy will tend to defeat legislation which aims at interference with them; and he looks to the spread of education and to the system of Takávi advances as more potent and lasting influences for ameliorating the condition of agricultural society than the introduction of special legislation on the lines proposed.

4. These differences of the point of view from which the Acts and their effects must be judged reflect themselves in weighing the facts and figures brought forward by the Commission in part I of their report. The capitalist seems to His Excellency to have secured his own interests by insisting on the land as a security, and it would appear that in the four districts land is passing out of the hands of the occupant into those of the capitalist no less rapidly than in other parts of the Presidency. There is evidence, in the opinion of the Governor, to make it probable that the rayats will soon accumulate as heavy a load of debt in the districts of Poona, Satara, Sholapur, and Ahmednagar, as before the passing of the Act of 1879. The results for which the Commission give credit to the Act may rather be attributed to a reaction after agrarian distress caused by a succession of bad seasons, and to the reduction of the pressure of population on the soil caused by the famine which preceded the passing of Act XVII. of 1879. On the other hand, the Honourable Members of His Excellency's Council attribute to the beneficial operation of the Acts an improvement in the relations between the lender and the debtor rayat, and a decrease in irritating litigation, as well as a marked improvement in the condition of rural society. I have been directed to refer to these different conclusions and points of views, because the report which is sent to this Government for opinion deals at length with the effects of the Act; but in the opinion of the Governor in Council, it is not necessary to pass any judgment on the conclusions of

the Commission on this point, or to attempt to bring into harmony the criticisms which suggest themselves to the Governor in Council. On one and the most important point this Government is agreed, namely, that the special legislation has now been in force within a certain area for more than 13 years, and that, whether it was politic or otherwise to dislocate existing jural relations and other arrangements in 1879, it would be undesirable to alter the law except in those particulars in which experience has distinctly shown a necessity to amendment.

5. I am accordingly, before dealing with the subject of a general law for agriculturists, or with the proposed alterations in the general law of contract, limitation, etc., for the whole of India, to detail the views of this Government or of its members upon the suggestions made by the Commission for amending the special laws for the Deccan passed in 1879, 1881, 1882 and 1886. Starting from the point accepted by the Governor in Council that the special Relief Acts for the Deccan districts are still required, I am to indicate the amendments which this Government suggests, or the views of the Members of the Honourable Board on those matters on which they are not agreed. In dealing with the amendments of the law, the sections of the Act of 1879, as amended, will be followed. The principle which guides this Government in discussing the several amendments proposed by the Commission is that unnecessary changes of the existing system should be avoided as not only confusing to the people, but liable to give rise to serious and other unforeseen legal difficulties.

6. *Sections 2 and 3.*—The Commissioners suggest a revision of the classification of suits, holding that suits in which non-agriculturists alone are concerned are out of place. It appears to His Excellency the Governor that the Deccan Agriculturists' Relief Act should confine its relief to the agriculturist. Its introduction was due to an outbreak of agrarian disorder, which culminated in the riots of May 1875, and it was devised to ameliorate the distress of the agricultural class. Moreover, if the changes proposed for the general law are introduced, there is less need to tack on to an Act for the benefit of the cultivating classes a special procedure for the benefit of other debtors. But a majority of this Government holds that, whether the expansion of the limits of relief was justified in theory, as Mr. Ranade affirms, or not, the necessity for a change of the law is not established. As remarked by the Honourable Mr. Justice Fulton "a change in the law, which must be by now pretty well understood, might make it uncertain whether a particular suit ought to be instituted in the Court of the 1st or 2nd Class Subordinate Judge, and any uncertainty on the point is very undesirable." The Honourable Mr. Trevor would go further, and not base the argument for retaining the existing classification on a more deprecation of avoidable change, but on the broader ground that the special Acts introduced into the Deccan were exceptional, not so much in relation to the class of the community affected, as in relation to their new and tentative treatment of jural relations between all parties resident in a local area. The outbreak in question, although occurring amongst an agricultural population, was in fact a revolt against the hard-and-fast application of legal principles and procedure borrowed from another society and unsuitable to India, where the land had been exempt from attachment for debt, and where legal technicalities in favour of the more educated Party to a contract produced effects that were not intended. Within the area of the experiment and the application of the special law, the Honourable Member can see no reason why the non-agricultural population should be deprived of the benefits conferred upon them by the existing law of the compulsory examination of parties, the prohibition of *ex-parte* decrees, the discouragement of written statements and of the employment of pleaders, relief from the expenses and delay of appeals, and ready access to Village Munsifs and Conciliators. On the proposal, then, of the Commission to revise the classification of suits so as to excluded non-agriculturist cases now admissible under Section 3 *w* and *x*, this Government is not unanimous. His Excellency the Governor concurs with the Commission, whilst his colleagues would not alter the existing law, since no practical inconvenience has been caused by it and constant changes of system are undesirable. At the same time this Government would amend the definition of agriculturist so as to exclude an inamdar who, not cultivating his lands, himself derives his income from rents received from his tenants. For the word "tenants" in section 2 (1st) (as amended by Act XXII of 1882) might be substituted "members of his family." It might also be made clear that parties here after seeking the benefits of the Act as agriculturists should have acquired that status at the date of the contract in accordance with a definition then in force. Until this is made clear, the rights of parties must be regulated by the ruling in *Shamlal* v. *Hirachand* (I. L. R. X, Bom., 367).

7. *Section 7 clause (1)* is objected to; but the Governor in Council concurs with Mr. Ranade in his remarks in paragraph 6 of his report No. 402, dated 18th October 1892, and

would retain the section. As to clause (2) of the same section, the Governor in Council concurs in the suggestion of the Commission to amend it so as to make it applicable to agriculturists' suits generally, and to relieve the plaintiff of the expense of enforcing the attendance of the defendant as witness.

8. *Sections 8 and 9.*—This Government agrees with the Commission that both sections may be repealed.

9. *Section 10.*—With this section must be read section 33 and Chapter VII, which deal with one of the main principles of the Act. On theoretic grounds, revision is preferred to appeal by the Honourable Mr. Trevor; whilst on the same grounds of principle, it is objected to by the Honourable Mr. Justice Fulton. But both these gentlemen agree, and the Governor in Council joins them in thinking, that any repeal of the provisions of the present law which substitutes revision and superintendence for regular appeals, is to be deprecated. If it could be proved that the present system involved a material increase of expense, the change advocated by the Commission might claim the support of a financial argument which would be entitled to great weight. But until more Assistant Judges are provided, the abolition of the special staff is impracticable. The District Courts could not undertake the heavy addition of appellate work which the repeal of section 10 would throw upon them. No principle was more insisted on by the framers of the Act than the provision of prompt justice. The object of the legislature was to encourage a settlement of agricultural disputes without litigation, if possible ; and, if that was impossible, to provide a summary and final decision based on an equitable consideration of all the circumstances, safeguarded by an efficient system of revision, and free, as far as possible, from the technicalities, expense, and delays of the ordinary law. On this subject Mr. Ranade has, in paragraphs 29 to 32, written at some length ; and in inviting the attention of the Government of India to his remarks, I am to state that the Governor in Council would, in maintaining the special Acts for the Deccan, not alter the system of revision, which has worked to the satisfaction of the public and of Government.

10. *Sections 12 and 13.*—The Commissioners, whilst approving of the principle of and obligatory investigation of the history of transactions with agriculturist debtors, consider that the inquiry should be confined to facts, and not based on assumptions. The Commissioners suggest that agreements for compound interest should not be accepted by the Courts if they deem them unreasonable. His Excellency the Governor generally agrees with the conclusions of the report as stated in paragraphs 37 to 40. A majority of the Government, however, concurs with Mr. Justice Fulton that the practical difficulty in going behind the bond of ascertaining the exact amount of principle due is so great under every system that it is best to trust to the experience gained and to the continued operation of the system which has been working in the Deccan districts. The law, as it stands, gives considerable latitude, but the control of the higher Courts, and the application of the law to a multitude of cases, have tended to establish certain principles of interpretation, which would only be disturbed by a fresh attempt to direct the investigation into the history of the debt. As to section 13, however, this Government approves of the addition of a proviso upholding agreements to take profits in lieu of interest and the assessment charges. It might be provided that, in respect of any mortgage effected after the date of the alteration of the law, nothing therein should be held to interfere with the right of parties to agree that profits of the mortgage property should be accepted by the mortgagee in lieu of all interest on the mortgage debtd or should authorize the Court to decline to enforce any such agreement. As to the concurrent amendment of the Contract Act, and of section 2 of Act XXVIII, 1855, this Government, agrees with the Commission.

11. *Sections 14 and 15.*—The extension of the former section to all suits under the Act and the repeal of the latter section, which permits the Court to order a reference to arbitration in certain cases, are approved by this Government. It is not understood that the elimination of section 15A from the Deccan Acts is advocated, although it is to find no place in the general law. Mr. Ranade, in paragraph 17, explains the object of the section, and this Government would not repeal it. Section 15B, which was engrafted on the Act in 1882, gives a power to order the payment of instalments in cases of decrees for redemption, foreclosure, or sale. The Commissioners, while approving of the law, would legislate to enable the Courts to vary such instalments after an order has once been passed. The Governor in Council apprehends that there would be no finality, and indefinite alterations would be sought by the debtor if such a power were reserved. He is therefore unable to support the suggestion. As to

section 15C, I am to invite attention to paragraph 19 of Mr. Ranade's report, with whom, in his opinion against any alteration of the law, this Government concurs. At the same time this Government agrees with the Commission that an addition to clause 3 of section 15D is desirable, so as to interpose a reasonable interval between the delivery of judgment and the signing of the decree.

12. *Sections 16 to 20.*—These sections involve a matter of some importance. Briefly, their effect is to allow an agriculturist-debtor to sue for an account, when the decree may provide for payment by instalments. The plaintiff may pay into Court at any stage what he considers a satisfaction of his debt, and the Court may fix instalments in payment of its decree. The Commissioners, in paragraphs 47, 48, 49, would grant in every case reasonable interest where the sum decreed is payable in instalments, and would give the Court power to vary instalments according to the varying circumstances of the judgment-debtor, as ascertained after due examination. This Government does not deny that there is much force in the arguments of the Commission on the subject of varying instalments, but at the same time it prefers the finality of an instalment once fixed, and the avoidance of the frequent references to the Courts which the proposed alteration would entail. On this subject I am to invite a reference to Mr. Crowe's report, paragraph 13, and to paragraph 21 of Mr. Ranade's letter. The discretion provided by the existing law, sections 17 to 20, both as to awarding interest and as to instalments, appears to the Governor in Council sufficient. The Commissioners' suggestion for the repeal of section 19 commends itself to this Government.

13. *Section 22.*—The Commissioners would limit the liability of attachment of standing crops to one-half, and would sell that half, subject to the payment by the purchaser of the assessment due on the crop attached. The law at present allows the whole crop to be attached, but its provisions are not made use of, partly it may be for the reason stated by Mr. Ranade in his report, but more probably for reasons of self-interest. It appears to this Government that an alteration of the law which purports to allow the attachment of a proportion of a crop, as it stands in the field and before it is threshed or weighed, will lead to great practical difficulties. It would probably be necessary to attach the whole in order to render possible and certain the sale of the half. It may be true that the provisions of the existing law are rarely enforced, and that when enforced they tend to bring about a prompt settlement, but the parties know best their own interests. The report of the Commission, paragraph 52, indicates a series of difficulties that at present hamper the judgment-creditor in proceeding against standing crops, and these difficulties would not be removed by dividing the crops which may be attached. It appears to this Government that the law had best be left alone. It provides a remedy for the creditor which is sound in principle; and if on a consideration of all the difficulties he does not resort to it, the legislature has done its best to offer him a remedy, and it may safely leave him to study his own interests in availing himself of it.

14. *Sections 24 to 33.*—These sections constitute Chapter IV of the Acts, and deal with insolvency. The Commissioners recommend in paragraph 54 certain changes in these sections, holding that the retention of a special insolvency procedure in the Relief Act is necessary. They admit, however, that the chapter, as it stands, has remained practically inoperative. This Government doubts whether the proposed amendments will tend to commend insolvency proceedings any more than at present to popular sentiment, and under these circumstances it has no recommendation to make in regard to this chapter, except that section 33 should be retained for the reasons given in paragraph 9 above of this letter.

15. *Sections 34 to 37.*—Chapter V, providing for the appointment of Village Munsifs for the trial of petty suits, as described in section 3 (*w*), has hitherto worked fairly well, although it is inevitabe that in the larger towns, where the best agency can be obtained, agriculturist defendants should be limited in numbers. At the same time some 7,000 suits a year are disposed of by this cheap and effective agency; and until the Government of India are in a position to deal with the subject for the whole of India by separate legislation, this Government would leave the chapter as it stands. The Commissioners recommend that the appointments of Munsifs should be for a term of years not exceeding three, and that their jurisdiction and that of the regular Courts should be concurrent. Special care is taken in the appointment of these Munsifs, and no practical need for altering the law has made itself felt. Under these circumstances, this Government would leave the chapter as it stands, at least until the general law proposed for India has been introduced.

16. *Sections 38 to 49.*—As regards Chapter VI, dealing with conciliation, it was stated in my letter No. 3356, dated 25th June 1890, that the weight of evidence seemed opposed to its

retention. That there are abuses under the system is shown in paragraph 56 of the report of the Commission; but, on the other hand, the Commissioners are prepared to provide for unofficial conciliation by a separate Act. Mr. Ranade, in paragraph 26 of his letter, summarises the arguments for and against the system, and a local Association, named the Sarvajanik Sabha of Poona, has, in a representation dated the 17th January 1893, which is sent herewith, strongly advocated the retention of the system. It is unnecessary to repeat the review of opinions and the arguments set forth by Mr. Ranade in paragraphs 27 and 28 of his letter. The argument that "conciliation has no special connection with the relief of agriculturist indebtedness" (page 62 of the report) does not appear to this Government quite accurate if the system is admitted to intercept litigation, to mitigate ill-feeling, and to provide a prompt and amicable settlement of disputes. For these were the precise objects which the legislature had in view when it introduced the special laws into the Deccan districts after lawless attacks upon the money-lenders had produced a most violent conflict between labour and capital, and widespread mistrust of the Civil Courts had spread amongst the rural population. Unofficial conciliation extended with caution by section 8 of Act XXIII of 1886, but expressly limited in the directions indicated at the end of page 60 of the report, is an essential feature of the special Relief Acts. The public are getting more and more used to it, and because a change of the system, to which rural society has accommodated itself, and which at least possesses many advantages, is undesirable, this Government does not advocate any alteration of Chapter VI If a general law of conciliation be hereafter introduced, the working of the two systems for a time, side by side, will possess advantages as a guide to future legislation. In connection with conciliation the refund system is discussed, and again the Commissioners observe that it has "no necessary connection with the objects of the Relief Act." The allowance of a refund of one-half of the court-fees, where the parties come to an agreement at first hearing, is a stimulus to a ready agreement which it was desired to promote in districts where society had been convulsed by agrarian discontent and indebtedness; and as the concession has been made, this Government would not withdraw it. But if the Acts are extended to other districts, the opportunity may be taken of not introducing a relaxation of the ordinary law which, once given, is with difficulty withdrawn; whereas, if it is never conceded, it is not likely to be missed.

17. *Sections 55 to 63.*—Chapter VIII of the Act was with Chapter VI regarded by the Government of Bombay, as constituted in 1890, as unnecessary. Stress was then laid upon the doubtful character of the agency and the untrustworthiness of the evidence or presumptions which the system afforded. But after further consideration the Governor in Council is disposed to attach much importance to bringing registration nearer to the people and to its practical effect in preventing forgery, or, on the other hand, a repudiation of duly executed bonds. Moreover, the agency will be of use for other purposes besides those connected with the Acts. At the same time, if the Act is extended to other districts, this Government would be prepared to consider the propriety of excluding this chapter as an experiment; but within the districts where it is in force, they consider that no change is needed or desirable either in the interests of revenue or those of the department of registration.

18. *Section 72.*—The Commissioners are apparently so impressed with the advantages of uniformity between the general law of registration and that provided for certain classes by the Deccan Relief Acts, that they recommend an alteration of the law of the empire as well as that in the special tract, in order to introduce a uniform term of six years' limitation for suits on bonds or on account stated. On this subject the Governor in Council considers that Mr. Justice Fulton had adduced weighty reasons against the change proposed, although His Excellency personally adheres to the recommendation for a reduction to six years advanced by this Government in 1890.

19. *Section 73.*—The Governor in Council concurs with the Commissioners in their remarks in paragraph 28 that section 73 should be repealed, and that the decision as to the status of the defendant as an agriculturist or otherwise should be as much open to revision as any other finding of fact.

20. It will thus be seen that the Governor in Council is agreed in advocating no general repeal of the Deccan Relief Acts or withdrawal of the power which the legislature has conferred of extending them in whole or in part to other districts. The few changes advocated might be made if the laws are consolidated into one Act, and the opportunity might be taken to eliminate from section 3 of Act XXIII of 1886 the necessity for obtaining the previous sanction to such extension of the Governor General in Council. Side by side with the Deccan Relief Acts there might be, if it is considered necessary to pass it, the general law for the pre-

tection of agriculturists which the Commissioners recommend in paragraph 77. The main contention of this Government is that within the four Deccan districts and its neighbourhood, where the provisions of the law are now thoroughly understood, there should be no alterations except those indicated above, since alterations of system are perplexing, and there is no guarantee in problems of this complexity that the views of the legislature or of the Government will remain constant. On the other hand, there is no doubt that rural society objects to and suffers from change. Debtors and creditors have now accommodated themselves to the relations established by the special laws. There is no demand on their part for any radical changes, and such opinions as this Government has received from public bodies are in favour of the retention of the Acts. As to whether the Act proposed for the rest of India should embody the provisions recommended on page 76 of the report, this Government is reluctant to express an opinion. The specific grounds on which some of the provisions of the existing laws are condemned, either because adequate agency cannot be obtained or because "a loss of power" is involved in revision, may or may not apply to other provinces of India. Even the educational equipment of the agricultural classes varies, and in view of these and other differences this Government hesitates to comment on a scheme of law which is not required in this Presidency and which is not yet embodied in a draft Bill. Moreover, there is the less need for a detailed criticism, because the ground of such criticism has already been covered in the course of the comments expressed in this letter on the retention or repeal of those several sections of the Deccan Relief Acts whose provisions have suggested to the Commissioners their own outline of a general law.

21. It is convenient here to deal with the four administrative measures, which the Commissioners, appointed to examine into the working of the Deccan Relief Acts, have recommended for the Deccan only. The first proposal is that "crops attached should be sold standing by the revenue authorities." This recommendation has already been referred to in paragraph 13 of this letter. It seems to this Government that the attachment of a proportion of a crop is practically impossible, and that it certainly could not be effected without considerable friction and additional revenue establishments. On the other hand, it seems doubtful if the change would be of much practical advantage to the creditor. The next suggestion that "suspensions of revenue should be granted as a matter of course in bad years" appears to this Government both too absolute and too indefinite. The Governor in Council would at all times be ready in the future, as he has been in the past, to allow suspensions and even remissions where the circumstances appear to demand them; but he is unable to perceive any necessity for the promulgation of any declaration binding future Governments on the subject. The satisfactory state of affairs described by the Commission in respect of credit (paragraph 18), of the encouragement of thrift (paragraph 23), and of land improvement and sinking of wells (in paragraph 26), is certainly irreconcilable with any condemnation of the treatment of the population in respect of the system with its accessories of suspensions or remissions of revenue. But even if there should be grounds for enjoining on Government the need for granting more frequently suspensions, notwithstanding the fact that "though the localities visited included some of the poorest parts of the four districts, no complaints of the assessment being too heavy were made," the declaration proposed by the Commission seems open to serious objection. It is admitted that there is ample power with Government to grant remissions and suspensions, but the Commissioners appear to think that the power is too sparingly used. It is presumed that the Commissioners do not advocate suspensions as a matter of course where they are not required, and therefore it must be their conviction that suspensions are not given when they are required. When a state of famine is reached, sections 138 and 139 of the Famine Code apply, and it is presumed that the Commissioners are dealing with "bad years" that are not notified as famine years. In such years what is to be the criterion of the need? The Commissioners state that the suspensions should be granted with reasonable regard to the rayat's ability to pay. If this means a personal inquiry into the means of each individual, the objections to the proposals are obvious. But perhaps the need for suspension and the inability of the rayat to pay are to be assumed at once from the mere existence of a "bad year." In the first place the question arises what constitutes a "bad" year, and in the next place, the proposed rule does not differentiate the effects of a bad year on the various classes of rayats. In paragraph 66 the Commissioners show that even a bad year does not effect all rayats alike. "In a considerable portion of the four districts the crops either failed entirely or were extremely poor. Some of the men who thus suffered were able to pay their revenue out of previous accumulations." From such at least whom a light assessment, already pitched so as provide a surplus for the contingency of a bad year, enables to accumulate for a year of scarcity, it would seem that the State might reason-

ably enforce its demand. But the terms of the Commission's recommendation that "suspensions of revenue should be granted as matter of course in bad years," would give these rayats, capable of paying their dues, an absolute right of suspension. The criterion which this Government adopts has been the necessary or otherwise for pressure in collecting the revenue. Its officers cannot fail to take note of any unusual delay or difficulty in the collection of the revenue; and where such occurs, this Government has never been slow to act upon any recommendations of the Collectors which are supported by the Commissioner. The substitution, then, of a hard-and-fast rule "of course" for discretionary power seems to this Government unnecessary.

22. The next administrative measure formally proposed by the Commission is that "suitable dates for the payment of revenue instalments should be fixed." This Government is not aware whether the attention of the Commissioners was given to the rules framed under section 214 of the Land Revenue Code. Rule 84, clause 1, empowers the Collectors, with the sanction of the Commissioner, to alter the dates of collection according to circumstances. Evidently, therefore, if the dates are unsuitable, that defect must not be attributed to the revenue system. The initiative can be taken by the villagers themselves; and although their silence may be due to apathy, as well as contentment with the dates fixed, still it is strange that the Commission in paragraph 64 should have used the words "payable at inconvenient times," and in paragraph 67 remark without any qualification that the power of fixing other dates has been "utilized to an insufficient extent." On the whole, however, this Government agrees with the Commission that "the local authorities are in each instance the best judges of what dates are suitable;" and as they have the power to alter the dates, no further action seems necessary.

23. The fourth measure advocated is the "preparation and maintenance of a correct record of proprietary rights in land." In this place I am not to deal with this subject at any length because this Government, in its Resolution No. 5785, Revenue Department, dated the 15th July 1892, had already anticipated the report of the Commission which was received with Mr. Porter's letter dated 12th August 1892. In that Resolution a joint report on the registration of transfers of landed property was called for. I am, however, to observe that it is probable that non-registration, where the creditor is actually proprietor, is much less common than assumed. It has been suggested that the requisite record might be obtained by simpler process than an enquiry into the title of every holding; but this Government is not yet in a position to discuss the subject, and it will suffice, for the purposes of this letter, to state that the want of a properly kept record of proprietary rights is admitted, and the remedy is under the consideration of this Government in the Revenue Department. The Commissioners discuss the subject of loans to agriculturists, of restrictions on the transfer of land and on the powers of mortgagees, and of a law of tenant right; but since no specific recommendation emerges from their discussions, this Government does not propose here to enter into a consideration of them. The importance of these topics is fully recognized; but in a letter dealing with the Deccan Relief Acts and similar legislation, the discussion of these subjects, which will receive full consideration in the Revenue Department, is unnecessary.

24. I am accordingly to pass on to the alterations recommended in the ordinary law on page 77 of the report. If the experiment of constituting Courts of Village Munsifs has succeeded elsewhere, this Government would have no objection to applying the system in the larger towns of this Presidency. As to a general law of conciliators with powers to refuse to record unreasonable agreements and to record the statements of parties, this Government would prefer to await some experience of the working of any General Act constituting Courts of Village Munsifs, and so far as the operation of the Deccan Agriculturists' Relief Act is concerned, to leave the powers of conciliators as they are at present. The alterations of the period of limitation generally to six years on bonds or on accounts stated has already been discussed. In the Deccan districts the Government prefers to leave the periods both of 12 years and 6 years, as now fixed and generally known, unaltered, and to await a practical demand for an alteration of the periods elsewhere, before amending the general law. To the proposed amendment of the Contract Act this Government has, in paragraph 10 above, expressed its assent, and the amendment of the Evidence Act, so as to shift the balance of the burden of proof where the parties to a contract are unequally matched, as well as the amendment of Act XXVIII of 1855, are measures of reform which the special Acts have tended to support, and which are in accordance with the recommendations previously made by this Government. As regards the modification of Section 337-A and section 525 of the Civil Procedure Code, the arguments for a change are contained in paragraphs 50 and 58 of the report. The exact amendments proposed are not stated; and, so far

as they concern section 525 of the Civil Procedure Code, the views of this Government would depend to some extent on the decision arrived at in regard to the system of conciliation. Under present circumstances, the suggestions of the Commission on these two points appear, therefore, to be hardly ripe for discussion.

25. Having thus briefly dealt with the several recommendations made by the Commission, I am to invite attention to the letters from the Special Judge, the District Judges of Poona and Satara, and the Registrar of the High Court, appended to this letter. This Government has also received the reports of the Commissioner in Sind, the Commissioners of the Divisions, as of the Commissioner of Survey and Settlement on the administrative questions discussed. Copies of these reports will be forwarded hereafter if the Government of India desires to receive them, but otherwise it may be more convenient to deal with them and the subjects they discuss in the Revenue Department, with such reference to the Government of India in the Department of Revenue and Agriculture as may be necessary. This Government has received applications for the extension of the Relief Acts to Kolaba as well as to Belgaum. As the Government of India are aware, it is open to the Local Government, with the sanction of the Governor General in Council, to extend the Acts in whole or in part to other districts. It might be convenient, in the event of the existing Acts being consolidated into one Act, which would be very desirable, to take the opportunity to modify the power of extending the Act so as to effect only talukas of districts, since in some of the districts of the Presidency the condition of certain talukas differs widely from that of others, whilst the line of division between them is often more distinct than that between one district and another. But until this Government is informed whether the Government of India concurs in its deliberate views that the Act should not be repealed for the districts in which they are in force, and that the amendments in them should be confined to the matters dealt with in this letter, the Governor in Council will not proceed to dispose of these applications or to pass any decision regarding the other districts referred to in my letter of the 25th June 1890. I am accordingly to request that the decision of the Government of India on the subject of retaining the Deccan Agriculturists' Relief Acts in force may be communicated to this Government as soon as that issue is settled.

From C. H. JOPP, Esq., Acting Registrar, High Court, Appellate Side, Bombay, to the Secretary to the Government of Bombay, Judicial Department,—No. 118, dated Bombay, the 19th January 1893. No

I am directed by the Honourable the Chief Justice and Judges to acknowledge the receipt of Mr. Lee-Warner's demi-official letter of the 12th ultimo, forwarding copy of the report of the Commission appointed to inquire into the working of the Deccan Agriculturists' Relief Act, and requesting that His Excellency the Right Honourable the Governor in Council may be favoured with an expression of the views of the Honourable the Chief Justice and Judge of the High Court of Bombay on certain important points discussed in the report.

2. In reply I am directed by their Lordships to forward copies of minutes which have been recorded by the Honourable Mr. Justice Candy and the Honourable Mr. Justice Fulton on the points noted in the letter.

Minute recorded by the Honourable Mr. Justice FULTON *on the Report of the Commission appointed to inquire into the working of the Deccan Agriculturists' Relief Act of 1879.* No.

The report of the Commission appointed to inquire into the working of the Deccan Agriculturists' Relief Act leaves no doubt in my mind that, with such small amendments as may from time to time be found expedient, it ought to be continued in the districts in which it is already in force. Frequent alteration of the law in any part of the country is undesirable; and whatever inconvenience or hardship may have been occasioned by its introduction thirteen years ago and its interference with then existing contracts, its main principles could probably not be altered now without as violent a dislocation of existing arrangements as as occurred at the time of its enactment. Whether it should be extended to Nasik, Kolaba, Khandesh, Thana, or Ratnagiri, is a point on which I do not feel competent to offer an opinion, as, excepting Nasik where I once officiated as Judge for three months, I have not served in any of these districts.

In regard to the amendments of the Act proposed by the Commission, I have to offer the following remarks:—

Section 3.—"Suits in which non-agriculturists alone are concerned, are out of place in an Act intended solely for the benefit of agriculturists, and should be omitted."—In theory no

no doubt such suits may be out of place in an Agriculturists Relief Act, but I doubt whether there is any such necessity for a change in the section as to make it desirable to alter it. A change in the law which must by now be pretty well understood might make it uncertain whether a particular suit ought to be instituted in the Court of the First or Second Class Subordinate Judge; and any uncertainty on this point is very undesirable. The Special Judge, I observe, does not consider the existing form of section 3 as inconsistent even in theory with the general intentions of the Act, but however this may be, I doubt whether any case has been made out justifying an amendment.

Section 7 (2).—The proposed amendment of this clause so as to make it applicable to agriculturists' suits generally, and so as to relieve plaintiffs of the expense of issuing processes to enforce the attendance of defendants failing to obey the first summons, seems to me desirable.

Section 8.—I can see no necessity for the repeal of this section. As pointed out by the Special Judge, it does not seem to give rise to any practical inconvenience.

Section 9.—As the section seems practically inoperative, there seems no objection to its repeal.

Section 14.—The proposed amendment of the section seems desirable in order, as the Special Judge remarks, to remove all possible doubt as to the legality of the practice at present followed. The Courts, I think, ought clearly to have the power of reducing exorbitant rates of interest in the case of all suits under the Act.

Section 15 (A).—There does not seem to be any necessity for altering this section, nor is any alteration proposed.

Section 15 (D).—The proposed amendment of this section appears desirable.

Section 19.—As this section has been practically inoperative, it would, I think, be desirable to repeal it.

Chapter IV.—Insolvency.—I have no remarks to offer about this chapter. It seems to have very little effect, but its repeal would probably be undesirable. I think I should be inclined to leave it alone.

Paragraph 57 of the Report.—It does not seem desirable to alter the refund system in districts under the Act.

I now pass to the sections and chapters referred to in the paragraph (3) of Mr. Lee-Warner's letter.

Section 7 (1).—I am inclined to think that this clause should be retained for the reasons given by Mr. Crowe and Mr. Ranade.

Section 10.—I do not think it is expedient to repeal this section at present. The reasons given by Mr. Crowe in the 5th paragraph of this letter seem to me to be sufficient to show the inexpediency of throwing on the District Courts the large number of additional appeals that would be made to them if section 10 were repealed. Theoretically, I should prefer appeal to revision, but I would strongly deprecate any change calculated to delay seriously the disposal of agriculturists' suits.

As regards sections 12 and 13, I doubt whether any change is desirable. It is true that, when a Court has to go behind the bond, great difficulty is experienced in ascertaining what amount of principal is really due; but I do not think that any very practical proposals have been made for meeting this difficulty. Under these circumstances, it seems to me that the best course would be to leave the section untouched, and to allow the Courts, which by now have had considerable experience, to use their discretion in interpreting it, subject to such control as the higher Courts will exercise over them. The necessity of allowing Courts to go behind bonds in all cases arising between money-lenders and agriculturists in the Deccan seems to me undoubted, and I do not think it is possible to devise any thoroughly satisfactory rule for effecting this process. Any fresh attempt to define it will probably give rise to new difficulties.

Section 14.—I am inclined to agree with the Commission that it is desirable to uphold agreements *made after the date of the amendment of the Act*, allowing mortgagees to take the profits of mortgaged property in lieu of interest; but I do not think the proposed amendment should affect any existing contracts. A proviso might be added to section 13, to the effect that in respect of any mortgage effected after the date of the alternation of the law, nothing

therein should be held to interfere with the right of parties to agree that profits of the mortgaged property should be accepted by the mortgagee in lieu of all interest on the mortgage-debt, or should authorize the Court to decline to enforce any such agreement. Possibly, such a proviso would check the tendency to represent loan transactions as sales rather than as mortgages, which has been noticed by the Commission; but in other respects, I should hesitate about altering in any way sections 12 and 13. I do not think any sufficient case has been made out for taking away the power of the Courts to disallow compound interest. If any system of revision of contracts is to be maintained, the Courts must have free discretion to deal with all questions of interest in such manner as may seem equitable. The only exception I would make would be in upholding agreements to take profits in lieu of all interest as above stated.

Section 15 (B).—I think this section should be left unaltered for the reasons given by Mr. Crowe and Mr. Ranade. It seems important to secure finality in the decree. If the general law were amended, this section might be repealed; but I doubt whether any necessity for such a change has been shown.

Section 15 (C).—I think that Mr. Ranade's answer to the remarks of the Commission on is section is sufficient; and that no alteration is desirable.

Sections 16, 17, 18 and 20.—I do not think that the recommendations of the Commission should be adopted. Mr. Ranade's arguments that it is undesirable to interfere with the discretion of the Court as to interest on instalments and as to attaching penal consequences to failure to pay an instalment seem valid.

Chapters V and VI.—I see no objection to the proposal to deal with the question of Village Munsifs and conciliation in a separate law for the whole of India; but until it is passed I would leave these chapters unaltered. No proposals seem made for their amendment in detail, excepting that the appointment of Munsifs should be for a term of years only, not exceeding three. The Commission appear to approve in principle of both Village Munsifs and Conciliators. As pointed out by Mr. Ranade, the Government can extend these chapters to any other part of the Presidency; but probably the inadequacy of the Judicial staff would render it impossible to do so at present, as in any district in which they were introduced constant inspection and supervision would be required.

Chapter VII.—Until more Assistant Judges can be appointed, it seems impossible to abolish the special staff maintained for inspection and supervision in the four districts under the Act. If this difficulty could be got over, the question of doing away with the special staff and substituting appeals for revision might be seriously considered.

Chapter VIII.—As regards the working of the system of village registration, I have no experience. But I observed that, while Mr. Crowe concurs with the Commission in suggesting its abolition, Mr. Ranade and Mr. Walker are in favour of its retention. If it be true that its effect has been, as stated by Mr. Walker, to prevent forged bonds, I should be very unwilling to do away with it. The Commission have considered the subject, but do not appear prepared to admit that it is to the action of the Village Registrars that the absence of forgery in the Deccan is principally to be attributed. My own view is that, though the policy of introducing village registration into other districts may be doubtful, it is not desirable to do away with it where it is already in force. Constant changes of system must be very confusing to the people, and often give rise to serious legal difficulties. It does not seem to me that any sufficient cause has been shown for the abolition of these Village Registrars.

Section 72—Limitation—The existence of distinct periods of limitation for different classes of persons is doubtless anomalous, but I am not sufficiently convinced that it is desirable to alter the general law of limitation to be able to support the recommendation of the Commission on the subject. Three years has long been the general period for suits on unregistered bonds and accounts stated, and I am not aware that any special reason exists for extending the period to six years. I think such a change in the law should not be made without good cause, and it does not seem to me that the mere wish to establish uniformity between the general law and the law under the Deccan Relief Act is a sufficient cause for altering the law throughout India. Uniformity is, no doubt, desirable, but hardly so necessary as to make such a change expedient. If, however, the idea of altering the general law were abandoned, and it were admitted that uniformity could not be attained (for the Commission consider that a three years' limit would be too short for suits against agriculturists in the Deccan districts), one of the reasons for reducing the limitation in suits on bonds and accounts stated under the Relief Act would disappear. On the whole, I should be inclined to

leave matters as they stand; for, though in the opinion of some Judges 12 years may be too long a period of limitation, it does not appear to have been shown that any particular evils have resulted from it. The present Special Judge is opposed to the reduction of the period of limitation, and I think his opinion ought to prevail. Whenever a real doubt arises as to the benefit of a proposed amendment of the law, it is generally, I think, better to make no change. Mr. Ranade, in order to secure uniformity in the Deccan, proposes an extension of time for non-agricultural suits; but this would introduce a fresh anomaly by making the limitation for for such suits in the districts longer than in the rest of India, although the non-agricultural classes in the Deccan were not supposed to be in any special difficulties, or to need a special law for their relief.

Section 73.—I think that the decision of the defendant's status as an agriculturist or otherwise should be as much open to appeal or revision as any other finding of fact. It is often one of the most important questions for decision in the suit.

On the question whether a general law for agriculturists for the whole of India should be passed, I am inclined to think that such a law, based on the recommendation contained in paragraph 77 of the report, would be beneficial. If passed, it should be applicable to any district at the discretion of Government, but it need not necessarily interfere with the existing Deccan Relief Act. Both laws might co-exist for a time side by side; and when the new law was proved by experience to work well, it would be time enough to introduce it into the Deccan districts in supersession of the present law. For the present, at any rate, I would allow the Courts and money-lenders and agriculturists of the Deccan to be governed by the law to which they have become accustomed, and would consider the question of a general law for agriculturists in the rest of India quite apart from that of introducing necessary amendments into the Deccan Relief Act. The main object of such amendments should, in my opinion, be to remove anomalies and inconveniences rather than to secure uniformity with the law of the rest of India, which cannot, I think, be attained at present. In no case should any amendment be agreed to unless some practical inconvenience were found to arise from the present law, or it were found that the sections proposed to be repealed had hitherto been inoperative.

The 6th January 1893. E. M. H. FULTON.

Minute recorded by the Honourable Mr. Justice CANDY *on the report of the Commission appointed to inquire into the working of the Deccan Agriculturists' Relieef Act, 1879.* **No. 73.**

Stress of work throughout the Christmas Holidays prevents me from doing more than giving bare answers to the questions put in Mr. Lee-Warner's *demi-official* note of 12th December last. To discuss adequately the different views which have been expressed on the various subjects for discussion would take more time than is at my disposal:—

(1) I think that tee present Relief Acts should be continued at least until a general law for agriculturist is introduced (if such general law is to be introduced): but whether the Act should be extended to other districts must depend much on the opinion of the local officers with full knowledge of the condition of the people.

(2) *Section 3.*—If the general law is altered, non-agriculturists may be excluded.

Section 7 (2).—I approve of the view expressed at the close of paragraph 32 of the report of the Commission, and would be glad to see a provision in the Civil Procedure Code giving to Local Governments the power of making it compulsory on the Courts in any district to examine the parties.

Section 8.—This provision is of no use so long as the examination of parties is compulsory.

Section 9.—The opinion is unanimous that this section may be repealed.

Section 14.—So, too, as to the provisions of this section being applied to all suits under the Act.

Section 15.—I have always considered this section a dead-letter.

Section 15 (A).—I would rather not give an extra judicial opinion as to what the law does mean.

Section 15 (D).—Mr. Ranade concurs with the Commission, and I see no reason to suppose that he is not right.

Section 19.—No one objects to this section being repealed.

Chapter IV.—Insolvency.—I agree with Mr. Lee-Warner's note on this point. I have always understood the chapter to be inoperative. Whether a separate Insolvency Act would work well must depend upon the details of the Bill when drafted.

Refund System.—The view of the Commission on this point is not very definite. There seems no objection to dealing with the subject in connection with the general law.

(3) *Section 7 (1).*—I am strongly opposed to the repeal of this section. We want as much encouragement as possible in this Presidency to the prompt disposal of judicial work.

Section 10.—This is a difficult question, and with it there is for consideration the question whether the Special Judge should be retained. If he is abolished, I would revert to appeal, with Special Subordinate Judges, to assist the District Judges in the work of superintendence. If the Special Judge is retained, then I would retain the present system of revision.

Sections 12, 13.—These in practice are most difficult sections to work. On the whole looking to the relief suggested by the Commission in another form, I am inclined to agree with the proposals of the Commission.

Section 15 (B).—I concur with Messrs. Crowe and Ranade.

Section 15 (C).—There seems no valid reason for repealing this section.

Sections 16, 17, 18, 20.—If the proposal to allow Courts to vary instalments could be carried out with some checks, so as to save the Courts from being over-crowded with such work, I should like to see a trial made. Also, I would allow the Courts to decide whether interest should be allowed on instalments.

Chapter V.—I know nothing of the working of the Village Munsifs. The chapter may apparently stand till a general Act is passed.

Chapter VI.—As a District Judge I found most contradictory opinions as to the use of Conciliators. There seems no objection to making the experiment of a revised system in a separate Act.

Chapter VII.—I have stated above my view on superintendence and revision.

Chapter VIII.—As a District Judge I did *not* like what little I saw of village registration, and I am disposed to concur in the proposals of the Commission. If necessary, the regular registration staff can be increased.

Section 72.—I agree with Messrs. Crowe, Walker, and the Commission.

Section 73.—The decision on this point should be subject to revision or appeal.

(4) As to whether the recommendations of the Commission as regards a general law for agriculturists for the whole of India should be accepted, or whether there should be a general law for agriculturists in the Deccan, at least, embracing certain provisions of the present Acts, I would on general principles like to see a law for agriculturists for the whole of India. Till that is carried out, I would re-enact the Deccan Agriculturists' Relief Acts in one Act with the necessary modifications and leave it to the Local Government to apply it to other districts as may be found suitable.

3rd January 1893. E. T. CANDY.

From Rao Bahadur MAHADEW GOVIND RANADE, Special Judge under Act XVII of 1879, to the Secretary to the Government of Bombay, Judicial Department,—No. 402, dated Poona, the 18th October 1892. No. 74

With reference to paragraph 2 of Government Resolution No. 4659, dated the 27th August 1892, Judicial Department, directing that a copy of the report of the Commission appointed by the Government of India to inquire into the working of the Deccan Agriculturists Relief Act be sent to me, and desiring me to submit my remarks on Part II of the same, I have the honour to submit the following observations.

2. I received a copy of the report on 6th September 1892; and on reading its contents I found that while Part II of the same was devoted to the consideration of the detailed provisions of the Act, many matters discussed in it had such intimate relations with the preceding Part I (in which the economical bearing of the Relief Act of the condition of the people is discussed with some fulness), that it was not possible to consider Part II separately without reference to Part I. The permission of Government was accordingly obtained to include Parts I and II in the observations which follow. On looking at the report and appendices, I find that they do not include any notes of the evidence given by the witnesses examined before the Commission, though reference is made in several places to such evidence. They do not also include the replies received from the Collectors and other officers whose opinions were sought regarding the working of the Act. Owing to the incompleteness of the information supplied by the report, I feel myself placed at some disadvantage in submitting my observations on the report.

3. In paragraph 63 of the report the Commissioners have stated that, subject to the modifications suggested by them, they consider that the Relief Act should not only be retained in the Deccan, but may with advantage be extended to other provinces where the problem of agricultural indebtednesss has presented itself. This Commission was, in the order of time the fourth inquiry instituted by Government during the last ten years. The previous three inquiries, to which I refer, are the inquiry by Mr. Woodward in 1882, the inquiry by Mr. Gonne's Committee, and the inquiry by Mr. Woodburn in 1888-89. The first of these inquiries was instituted under orders of the Secretary of State for India. As the result of his inquiries, Mr. Woodward concluded his report by stating that he would be glad "to see the Act extended to the other districts of the Deccan, and even to the entire Presidency, at least those portions of it which provide for a judicial inquiry into the history of debts, the redemption of mortgaged lands, and the proceedings before a Conciliator precedent to the institution of a suit." Later on Mr. Gonne's Committee was appointed by the Local Government to inquire into certain points which were left undetermined by Mr. Woodward. That committee was a mixed committee, and it reported strongly in favour of the retention and extension of the conciliation system by a large majority. It also suggested a modification of the registration provisions so as to exempt simple money-bonds from the necessity of registration. In answer to the Secretary of State's Despatch No. 95 (Revenue), dated 23rd October 1884, the Local Government, in their report in 1885, stated that the provisions of the Act marginally noted had proved most successful. At the same time inquiries were instituted with a view to extend their operations to the other districts, and power was taken by an amendment (Act XXIII of 1886) of the law to legalize such extension, in whole or in part, to other districts. In respect of conciliators, the proposal to invest them with enforcing compulsory attendance was also at the same time passed into law. In 1888 Mr. Woodburn was appointed on special duty; and in his report, he compared the economical condition of the four districts under the Act with five neighbouring districts; and applying several independent tests, he arrived at the conclusion that the Act had been decidedly successful in improving the economical condition of the four districts in a way superior to what was seen elsewhere. Mr. Woodburn did not address himself with the same fulness to the consideration of the judicial provisions of the Act. The Bombay Government in their letter to the Secretary to the Government of India (No. 3356, dated 25th June 1890), on considering Mr. Woodburn's report, proposed certain modifications in the Act regarding conciliation, village munsifs, registration, and limitation, and recommended that the Act so modified should be extended to Nasik. It was this defect in Mr. Woodburn's inquiry which led to the appointment of the Commission, and its report affirms the conclusions of the three previous inquiries about the economical success of the Relief Act in reducing debts (paragraphs 8—12), without shaking credit (paragraph 18), or demoralizing the rayats, or ruining the sawkars (paragraphs 19—25), or checking improvements (paragraph 26). Similarly, in regard to the judicial provisions of the Act, the Commissioners affirm the success of the principal six provisions of the Act on which the Bombay Government laid chief stress in 1885 and 1890, and they also recommended the extension of the village munsif system and the retention of conciliation, compulsory registration, and limitation provisions, with some modifications. It will be thus seen that this fourth inquiry has not only re-affirmed the results of the previous three inquiries, but has advanced the considerations of the questions at issue in a larger measure than before towards a satisfactory settlement.

(1) The provisions against *ex-parte* decrees;
(2) The provisions for going behind the bond;
(3) The provisions in regard to suits for redemption and suits for account;
(4) The provisions in regard to payment by instalments;
(5) The abolition of imprisonment for debt; and
(6) The abolition of the sale of immoveable property except when specially mortgaged.

4. The following statement will present in one view the sections of the Act proposed to be amended or repealed, and the paragraphs in which the recommendation occurs :—

Chapter and section of the present Act.	Description of recommendation made by the Commission.	Paragraph of Commissioners' report containing this recommendation.	Paragraph of this report containing remarks on such recommendation.
3	To be modified	30	5
7	Clause (1) to be repealed and clause (2) to be made part of the general law.	31 & 32	6 & 7
8	To be modified	33	8
9	To be repealed	34	9
10, 33 & 73	Do.	28 & 54	32
12 & 13	To be modified	37—40	10—14
14	Do.	41	15
15	To be repealed	42	16
15 A	To be modified	43	17
15 B	To be made part of the general law . .	44	18
15 C	To be repealed	45	19
15 D	To be modified	46	20
16—18 & 20	Do.	47 & 49	21
19	To be repealed	48	22
22 and standing crops.	To be modified	51—53	23
Ch. IV	Do.	54	24
Ch. V	To be constituted by a separate law . .	55	25
Ch. VI and Refund System.	To be constituted by a separate Act if retained, and Refund System to be tried in connection with the ordinary law.	56 & 57	26—28
Ch. VII	To be modified	59	29
Ch. VIII	Do.	60	30
72	Do.	62	31

This enumeration of the sections in which modifications are suggested differs from the final summary given in paragraph 77 of the report. That summary, however, was intended to embody suggestions for a general Act for the protection of agriculturists, to apply not only to the four Deccan districts but to the other provinces also. I do not feel myself called upon to enter into this larger question of a general law for the relief of agriculturist debtors. Being responsible for the working of the Act in these four districts, it will be sufficient if I confine my observations to those portions of the report which are devoted to the considerations of the provisions of the Relief Act as it now obtains in these four districts.

5. Taking these suggested changes in the order given above, the Commissioners propose in paragraph 30 of their report to exclude non-agriculturist cases from section 3 in Chapter II, on the ground that such suits have no place in an Act intended solely for the benefit of agriculturists. The previous history of this legislation, however, does not furnish any warrant for this narrow view of the scope and purposes of the Relief Act. The first draft submitted by the Bombay Government proposed to invest Subordinate Judges of First and Second Class with the powers of the Courts of Small Causes in all suits cognizable by such Courts up to R500 and R100, respectively, and two other classes of suits, *viz.*, suits for account and mortgage suits, were added to this Small Cause Court jurisdiction. This suggestion was made by the Bombay Government in accordance with the directions given by the Secretary of State in his Despatch of 26th December 1878. In paragraph 17 of this despatch it is stated that "the Courts of Justice we have instituted, and the law they administer, operate

most harshly, and frequently with great injustice, on debtors who form the great bulk of the population." In paragraph 22 it is stated that "it is abundantly manifest upon the evidence that no evil has been so loudly and so justly complained of by the people as the action of the Courts." In paragraph 29 it is stated that "evils such as have been depicted above, arising out of the costliness and inaccessibility of the Courts of Justice, existed in England also, and the remedy suggested there was the establishment of Small Cause Courts." In paragraph 31 the Secretary of State suggests the remedy in the following words: "I cannot doubt that the existence of Courts, with summary jurisdiction, and without appeal, up to a limited amount, placed in localities within reach of the suitors' homes, would tend to remove many of the evils which have been brought to notice," and he accordingly directed in paragraph 33 that "the principle of summary jurisdiction without appeal might be conferred experimentally on all Civil Judges in the Deccan with great benefit, and the limit to be fixed would, of course, vary with the rank of the Judge." These extracts from the despatch show the origin of the proposal to invest the Courts with summary jurisdiction of the nature exercised by Small Cause Courts, for which provision was made in the first draft of the Bill sent from Bombay. This draft was sent with the Bombay Government's letter No. 2056, dated the 18th April 1879, and paragraph 4 of this letter states that "the evils arising from the action of Civil Courts were sought to be remedied by increasing the number of Courts, by extending the summary and final powers of the Subordinate Judges, by simplifying procedure, by appointing conciliators and Village Munsifs, and by abolishing appeals." In section 3 of the draft Bill introduced by the Honourable Mr. T. C. Hope, there were only two classes of suits, *viz.*, suits cognizable by Small Cause Courts and mortgage suits, the provision about account suits being transferred to another section. In Committee, section 3 was amended, and the description of different classes of suits under classes (*w*) and (*x*), against agriculturists and non-agriculturists, and (*y*) and (*z*) for agriculturists, was inserted in place of the original classification of Small Cause suits and mortgage suits; and instead of conferring Small Cause Court powers by name to the Subordinate Judges, section 5 was added, by which it was provided that no such power should be conferred, and no such jurisdiction exercised by these Courts. This limitation was rendered necessary by the opposition in Council to the proposal to confer summary powers on these Courts, which opposition was satisfied by the provision about revision substituted in place of the abolished appeals. This history of the Bill shows clearly that it was not intended solely for the relief of indebted agriculturists. The Bill was intended from the first to provide a cheaper, simpler, more effective, and more equitable procedure for all classes of suitors than that which had led to the evils complained of This intention of Government is expressly affirmed in the Statement of Objects and Reasons attached to the Bill, where it is stated that one of the objects was to simplify and cheapen the administration of justice, and the Viceroy (Lord Lytton), as President of the Council, stated that "one of the principles on which the Government of India were not prepared to entertain any compromise was the necessity of simplifying the procedure." With a view to effect this object, a special procedure (1) requiring the examination of parties, (2) prohibiting *ex-parte* decisions, (3) discouraging written statements, (4) disallowing the employment of pleaders, (5) abolishing the system of appeals in all cases, and (6) providing for Village Munsifs' Courts in petty cases, was laid down for all classes of suitors; and, with a view to protect agriculturists, the Bill further provided (7) for compulsory registration, (8) enforced resort to conciliation, (9) increased the equitable powers of Courts to revise contracts, and (10) disallow heavy rates of interest, (11) increased the power to grant instalments, (12), and lastly, abolished imprisonment of person and (13) sale of property in execution of money decrees. It will be thus seen that the objection urged in the report of the Commission, about the provisions regarding non-agriculturist suits having no proper place in the present law, has no force, and is inconsistent with one of the main principles and objects for which this relief legislation recommended itself to the Local Government, the Government of India, and the Secretary of State.

6. In paragraph 31 the Commissioners propose to repeal clause (l) of section 7, on the ground that its operation involved the parties, especially the plaintiff, in much unnecessary inconvenience and expense in producing his evidence at the first hearing. It is, however, admitted that out of 61,771 suits disposed of in six years (in which summons was issued for final hearing), 27,121 suits were actually so disposed of; but it is suggested that most of these cases were made up of admissions, compromises, or dismissals. If this description of such suits is accepted, it is plain that in the large majority of such suits, there was no occasion for any complaint about the parties being involved in much unnecessary inconvenience

and expense. As a matter of fact, I find that, out of the total number of suits disposed of at the first hearing, 18 per cent. suits were contested, and this percentage of contested suits is slowly rising, being about 23 per cent. last year. This proportion cannot properly be regarded as an unduly low proportion, seeing that contested suits in ordinary Courts are about 25 per cent. The proportion of suits in which defendants' attendance at the first hearing has to be secured by compulsory process is slowly falling, being 13 and 12 per cent. in the last two years. This percentage more correctly measures the possible inconvenience to which the parties are put to by the operation of this first clause of section 7; and as the voluntary attendance of the defendants still further improves, the inconvenience complained of will still further be minimized. A change in the law on this point appears, therefore, undesirable and unnecessary. This clause of section 7 has to be taken along with the other provision of the Act, which ensure the attendance and examination of the parties, about the advantages of which the Commissioners in their report speak in terms of unqualified approval. Where both parties attend, there is an obvious advantage in avoiding delay so usual under the old system of litigation, and a clause under consideration affords an additional security for this desirable improvement.

7. In paragraph 32 the Commissioners approve of the compulsory examination of defendants, and recommend its extension to all agriculturist suits. I have therefore no remarks to make in this connection. I would, however, go further and incorporate this provision in the general law for all classes of suits. A judicial inquiry, in which both parties are not present before the Judge, is a misnomer, and long custom alone can reconcile men to regard *ex-parte* judgments as judicial work. Under the operation of the Relief Act, *ex-parte* decisions, which were 60 to 70 per cent. before the Act, have been reduced to 5 or 6 per cent.

As regards the suggestion made at the end of the same paragraph, that plaintiffs should not be put to any additional costs after the first summons, it must be noted that no complaints have been made on this head, and the effect of the proposed change will only be to require the Courts to draw upon Government money, and ultimately to refund it from the taxed costs. Such an arrangement will increase the work of the Courts and result in no substantial gain, to the parties, for, as stated above, in only 12 per cent. suits there is any occasion for issuing compulsory processes after the first summons.

8. In paragraph 33 the suggestion to repeal section 8 is made on the ground that, if the examination of parties is made incumbent on Courts, the filing of written statements can do no harm; and such statements are often of much assistance to a Court in the case of nervous or unintelligent parties. As a matter of fact, the section itself provides for the admission of written statements with the permission of the Court. All that it lays down is that no party shall be entitled to file a written statement in cases falling under clauses (*w*) and (*x*) without the permission of the Courts. In the more complicated cases under clauses (*a*), (*y*), and (*z*), written statements may be filed without permission. In the original draft of this section it was proposed that no written statement other than the plaint shall be received, unless required by the Court or with its permission The section, as it stands, limits the class of suits in which such permission is necessary, and Statement VI appended to the report of the Commission shows that in only 2 to 3 per cent. cases was the permission required. The question is by itself not of much importance, as the Courts are always disposed to help nervous and unintelligent persons. The intention of the legislature in framing the section was to emprasize the necessity of the personal examination of the parties. If a party is permitted to put in a written statement in the first instance, he is, by reason of his ignorance, necessarily led to seek the advice not so much of the recognized pleaders as of the cheaper agency of irresponsible persons who make litigation their profession, and who frequently suggest false lines of defence. It was to avoid this evil that the section as it stands was framed. The effect of the proposed change would be a speedy return to the old order of things. The Courts will be less disposed to examine defendants thoroughly when they have before them what purports to be their defence, and the parties would also be placed at a disadvantage to state in their examination anything contrary to what had been urged for them in their written statements. It cannot be said that, under such circumstances, the filing of written statements as a matter of right, and not as a special concession, can do no harm. The prohibition of written pleadings is one of the reforms in the system of procedure which, in paragraph 30 of the Despatch of the Secretary of State noticed before, was recommended for adoption in the Deccan; and in view of the provision being a part of the general scheme, it seems undesirable to adopt a change which is inconsistent with the main principles of this legislation, especially when the present law is not attended with any practical inconvenience.

9. I have no remarks to offer in regard to the suggestion made in paragraph 34 regarding the repeal of section 9, as the section has been for the most part inoperative.

10. In paragraph 37, the report of the Commission contains a suggestion to amend section 12, which is open to the same objection as has been noticed above in paragraph 8 of this report. The point of view from which the Commissioners look at the matter is not identical with the view of the legislature. The law lays down that in taking accounts under section 12, the Court shall not be bound to inquire, if it believes that the admission made by defendant is true, and is made by him with a full knowledge of his legal rights; but even in these cases, it may do so if it thinks fit. The Commissioners suggest that it should be incumbent on the Courts to accept the admission where it is satisfied that it was true, and made with a full knowledge of the relief which the Court is entitled to grant. The difference between the two views is not obvious at first sight, but it is none the less substantial. Practically, it is in very few cases that the discretion allowed by law has to be exercised; but the fact that there is this discretion exercises a correcting and controlling effect, which would be done away with if the discretion were disallowed.

In the same paragraph the Commissioners remark that section 12 does not cover the common case where a defendant admits, or is not prepared to deny the existence of a debt, but is ignorant of its proper amount, and then thought that this omission was an oversight in drafting. It will be seen, however, that there was no such oversight, for in a succeeding clause of the same section, it is provided that in other cases in which the amount of the claim is admitted, the Court shall be bound to inquire as in cases where the amount is disputed. There is, therefore, no omission due to oversight as stated in the report, and the practice of the Courts is fully supported by the wording of the section.

11. The Commissioners observe towards the end of paragraph 40 that sections 12 and 13 should not be read as throwing in all cases the burden of proving the history of the transactions on the creditor, and they suggest that the Courts ought to be empowered to base its decision on such evidence as may be available. I am not aware that there has been any such misinterpretation of the section, and the High Court has expressly interpreted the section (I. L. R., Vol. IX, page 520) in the way in which the Commissioners suggest. Section 12 simply repealed section 9, clause 1, of Bombay Regulation V of 1827, by which the defendant was required to show that he had not received full consideration in cases where he admitted the execution of the bond. Along with this repeal the law required the Court to examine both the parties, and thereby obviously left it to the Court to trace the previous history by the help of available evidence. As the High Court has already decided the point, there is no necessity for the suggested amendment. The Commissioners themselves admit that the plaintiffs (creditors) are very properly required to prove the payment of consideration where they have accounts.

12. In paragraph 38 the Commissioners, while accepting generally the principles of the method of account laid down in section 13, suggest amendments in two or three important points. The Commissioners, in the first place, consider that the policy of setting aside, with retrospective effect, agreements to take the profits of mortgaged property, without an account in lieu of interest, deserves serious reconsideration. After admitting that this policy has enabled a large number of mortgagors to recover their lands, they suggest that the retrospective operation of the law has had certain indirect effects, and its enforcement is beset with certain difficulties which, in the opinion of the Commissioners, render a modification of the law desirable. They proceed to state that such agreements are not only very common, but are highly convenient to illiterate and ignorant people, and that the effect of the law has been to curtail, to some extent, this popular and convenient form of transfer, and they think that it has had the result of encouraging the substitution of out-and-out sales, accompanied by a verbal promise to re-convey, which promise is not always loyally kept. Moreover, they think that it is extremely difficult to estimate profits over a series of years. For all these reasons, the Commissioners considered that the time had arrived to repeal the retrospective provision of the present law, and they proposed instead to give prospective effect to the equitable power of Courts to revise contracts.

I have tried to state the Commissioners' views fully, as far as possible, in their own words. It appears to me, however, that there is an initial misconception of facts, which seriously vitiates the appropriateness of the recommendation made The agreements to which they refer are not so fair, nor so common, as the Commissioners were led to think. The Report of the Deccan Riots Commission on page 62 states that "sometimes the produce of the land is made to represent the interest of the loan, but more usually a specific rate of interest is

recited in the mortgage bond, and the debtor holds as tenant on every variety of terms and conditions." As specimens of such agreements, I may refer to pages 279—288 of Appendix C., to the Deccan Riots Commission Report. Later on, the Deccan Riots Commissioners in the same page (62) state that "as the amount in the mortgage bond is more than the value of the land at 12 per cent., and as the rate of interest in the bond is usually at least 18 per cent., it follows that the land will not yield the required sum, and thus the mortgagee constantly receives the full actual rent of the land, and in addition exacts bonds for the yearly deficit." "In Poona, much land is held by the mortgagor tenants at the usual rent, *viz.*, half the gross produce of dry crop, and one-third of irrigated land, the mortgagee paying the assessment and sharing in the seed and expenses. In Ahmednagar, the tenant is expected to pay the assessment and expenses, and hand over the rest of the produce." This was the state of things in 1875. In 1888, when Mr. Woodburn made his inquiries, he found (see page 7 of his report) that "out of 1,806 mortgage-bonds, for which information was obtained in ten talukas of the four districts, in 231 instruments, or 12 per cent. only, there was a condition providing for the enjoyment of profits by the mortgagee in lieu of interest." Mr. Woodburn characterized this condition as "most pernicious," for "such a contract leaves the mortgagor very little hope of redemption." So far as the statistical figures go, there is no doubt that mortgages without possession are not in favour with sawkars. In 1891, 24,860 mortgage-bonds for 23½ lakhs of rupees in value were mortgages with possession, and 13,232 bonds with 9⅜ lakhs in value were mortgages without possession (see pages 13—16 and 18—21 of the Report of the Commission); but this preponderance of mortgages with possession, should not be understood as implying that, in every mortgage with possession, there was a condition for the receipt of profits in lieu of interest without account As shown above from Mr. Woodburn's report, scarcely $\frac{1}{10}$th mortgages are of this character. I the remaining $\frac{9}{10}$ths the transfer of possession is only on paper for purposes of title, and the mortgagee permits the mortgagor to retain possession on condition of paying ½, ⅜ths, or ⅓rd of the gross produce. The produce paid by the mortgagor in possession is received on account, but not in lieu of interest; and when it is remembered that the interest rate exceeds 18 per cent. in most cases, and the reasons are so variable that there is hardly one year of good crops against three bad years, the produce share paid seldom satisfies the interest charge. Before the Relief Act, in too many cases, the mortgagee received the profits in lieu of assessment only, and the interest was allowed to be added to the principal. When he was in actual possession, the mortgagee paid the assessment; but in a very few cases did it happen that some interest balance was not added to the principal amount each year. This was inevitable with very high rates of interest and uncertain seasons. Even under the Act, the statements attached to the report of the Commission (pages 45—48) show that out of some 25,000 mortgage-bonds, for which details of interest rates are given, 1,894 bonds carried less than 9 per cent. interest, less than ⅓rd, (7,715) stipulated 12 per cent. interest rate. About 8,000 more stipulated interest rate above 12 and below 18 per cent., and in the remaining ⅓rd, the interest rates were from 21 to 75 per cent. With such heavy rates of interest, and the admitted fact of once in three or more years only the seasons being favourable, it is next to hopeless for the mortgagors to satisfy interest by produce payments. The large figure in column 3 of the above statments, showing the number of mortgage bonds in which profits were to be taken as interest, appears to have misled the Commissioners into thinking that in all these bonds (about 60 per cent. of the total number) the profits were received in lieu of interest. Such an impression can alone account for their opinion that such a stipulation was common and popular, and should not be disturbed. The reports of Mr. Woodburn and of the Deccan Riots Commission show beyond doubt that the fact is otherwise. Such instruments are only a small fraction, and the large number of bonds in which profits are received on account of interest is not identical with the small number of bonds in which profits are received in lieu of interest. Even if this number were larger, the uncertainties of the seasons prevent the mortgagors in possession from getting any advantage of the stipulation, and it is only found useful in that small percentage of cases where the mortgagee with such a condition occupies the land himself, or lets it to third parties. The maintenance charge, cultivation expenses, and assessment are permanent and increasing charges. The lands, owing to the extension of cultivation to inferior soils and constant cropping, yield a diminishing return. The only elastic quantity is the interest amount and unless the contract rate is revised, and reasonable rates allowed, there is no escape from the debt with its increase of interest. Under these circumstances, nothing but the retrospective operation of the law can possibly prove helpful.

The alleged uncertainty of the estimates made of past profits is, no doubt, a point to be taken into consideration, but the Courts usually take average profits and average prices, taking good and bad years generally together. This ensures a substantial fulfilment of the reasonable expectations of the parties to the contract. As shown in my last year's annual report, out of some 27 lakhs of mortgage-debt settled by Courts, in fully ⅓rd cases, both in numbers and value, the amount of the mortgage-bonds was decreed in full. In 37 per cent. cases, representing 12⅓rd lakhs of debt, 7¼th lakhs of rupees were allowed, and in only 22 per cent. cases, involving ⅙th of the total value, was redemption decreed without payment. These large results do not show that the system of taking retrospective account has at all been abused.

Moreover, as the prevailing arrangement is to let the mortgagors remain in possession in nearly 90 per cent. of cases, the alleged uncertainty of estimated profits is, to some extent, an inevitable evil. The recommendation made by the Commissioners to allow prospective revision of the conditions in the bond is open to the same objection. With the uncertainty of the seasons, the returns must be more or less fluctuating and uncertain, and the objection taken by the Commission on this head will therefore hold good under either plan of giving retrospective or prospective effect to the power of revising contracts.

As regards the other evil noticed in the report of the Commission, *viz.*, that such a provision tends to encourage out-and-out sales, it must be remarked that this objection also would hold equally good, if mortgagees were threatened with the liability of prospective interference with the contract arrangements entered into by them. There would be, under the proposed arrangement, a still more potent factor of mischief at work. One effect of the proposed change would be that every mortgagor would seek the help of the Courts to get the contract arrangement revised and altered in his favour. At present, the mortgagee is at least sure that his hold on the land would not be disturbed till the plaintiff makes out a case to the satisfaction of the Court that his claim of principal debt, with 12 per cent. interest, has been substantially satisfied. There will be no such guarantee to the creditor under the alternative arrangement recommended. The flood gates of litigation will be opened all over the country, with no tangible advantage to either party.

I may note that in the corresponding Incumbered Estates Acts in this and in the other presidencies, the powers of retrospective interference with contracts are, if possible, more extensive and drastic (see pages 335—346 of the General Rules in force in the Revenue Department). The policy laid down in these rules is one of restrospective revision, and it has been repeatedly affirmed by the local Governments in successive Acts. In the first draft of the Bombay Bill Sir Richard Temple, then Governor, recommended similar limitations (letter No. 4579, dated 5th September 1878, Revenue Department). If this help is needed by the holders of large estates, *à fortiori*, it cannot be dispensed with by the indebted peasantry.

The idea of a prospective settlement was to some extent intended to be given effect to in the second clause of section 22 of the Act; but as every one now admits, this provision has proved a dead-letter. Under these circumstances, I strongly deprecate any change on this head in the direction proposed.

13. With regard to the suggestion in paragraph 39 of the report about allowing compound interest in certain cases, it may be noted that the present provision in clause (*d*) of section 13 disallows compound interest unless the Court, for reasons to be recorded by it in writing, deems it to be reasonable. The Commissioners suggest that such agreements should not be accepted by Courts if it deems them to be unreasonable. The difference between the two positions is a difference not so much in words as in the point of view from which the subject is looked at In the first draft sent from Bombay, it was distinctly provided that compound interest should not be allowed in any case. In the first Bill introduced by the Honourable Mr. T. C. Hope this provision was dropped; but it re-appeared in the final Act. In the inquiries instituted by the Deccan Riots Commission, this accumulation of interest was *the* evil complained of on all sides as making the condition of indebted rayats hopelessly insolvent. The statistics given on pages 45—48 in the report of the present Commission show what the rates of interest are, even under the correcting influences of the Act. They show that in less than ⅓rd of the total number of mortgage-bonds, does the interest rate fall short of 12 per cent. In fully ⅓rd, it is between 12 and 18 per cent., and in the remaining ⅓rd, it ranges from 21 to 75 per cent. With such rates of interest governing private dealings, the presumption always is that the conversion of interest into principal must be unreasonable; and from that point of view, there is full justification for the provision as it exists in the law. To allow such conversions, except in cases where the Courts deem them to be unreasonable, can have

only one effect. There is always a tendency to read between the lines of judicial enactments, and this tendency will sway the minds of the Subordinate Judges and induce them to allow the conversion in a majority of cases. The Commissioners based their recommendation chiefly on the ground that the necessary result of the law, as it now stands, is that both parties collude to evade the law by fraud, or creditors are forced to go to Courts in self-defence, even when they would otherwise be willing to give further time to their debtors. As to collusions by fraud, much need not be said here, because such collusions, in the rare cases where they happen, furnish no ground for encouraging, by a positive provision, an evil tendency in the large majority of cases where no collusion exists. As regards the second ground, it is the *Dam Dupat* rule, and not the provision of the law against compound interest, which forces creditors to decline giving further time. The wording of the section as it stands does not prevent the Courts from allowing conversion where, under the circumstances of the case, they are reasonable. If, in actual practice, this provision has not been acted upon, it is because the rates of interest are so heavy in all cases which come into Court and only the worst cases come into Court), that there is no room for showing any indulgence. The suggested change throws the burden on the debtor to show that the conversion is unreasonable. The change, therefore, proposed seems to be in subversion of one of the leading principles of the Relief Law, and in practice unsuitable to the circumstances of the suitors who come into Courts. If the percentage of cases in which low rates of interest prevail were larger, the proposal would be to some extent justified. But as out of 25,000 instruments, for which information was available, in less than 8 per cent. cases the rates of interest ranged from 3 to 9 per cent., the conversion of accumulated interest can never be regarded as fair under any circumstances.

14. In paragraph 40 of the report the Commissioners state that they were not in a position to say whether the method of account prescribed by the Act is more favourable to the creditors in certain cases than that usually adopted by money-lenders. I submitted two statements to the Commission with a view to show that, where there were many debits and credits in an account, the calculation of interest from item to item, and setting off each credit against each debit, is more advantageous to the creditor than the usual set-off of the total debits against the total credits at the annual settlement in each Diwáli, because interest is calculated on each item for broken periods for which no interest is calculated under the usual plan till next settlement.

In the same paragraph, the Commissioners refer to the presumption resorted to by the Courts, where no previous history of old debts could be traced, that half the amount was principal, and half interest. This practice was discontinued since 1885, in consequence of a ruling of the High Court disapproving it. Properly speaking, the presumption was not correctly put in the particular case which went to the High Court. What the Courts did was to disallow plaintiff's claim for interest where, in the case of an admittedly old debt, he failed to show the past history of the dealings As the debts were generally doubled in three years under the old law, there was a substantial foundation for the view that an admittedly old balance was made up of principal and interest in equal proportions. The law directed that interest should be allowed only on items proved to be principal. If the plaintiff failed to show what that principal was, he had no claim to charge further interest on it. Turning to the rules framed under the Incumbered Estates Act, I find that Government has authorized the Settlement Officer to deduct 50 per cent. from the claim in cases where the history of an old debt could not be ascertained (see page 335 of the General Rules in force in the Revenue Department published by the Remembrancer of Legal Affairs). Rule V directs that, when the first principal is not satisfactorily proved, a deduction of 50 per cent. shall be made from the amount of the debt. This rule was first framed in 1862, and was re-affirmed in 1881. The principle of it was followed in a more liberal spirit in the presumption referred to in the report of the Commission.

The Commissioners have observed in one place in this paragraph that the Special Judge ruled that in no case should the mortgage receive more than the principal, even if the mortgage account taken under sections 12 and 13 resulted in a larger balance. I am not aware that any such general order was issued by the Special Judge. It may have been ruled in some particular case, and the circumstances of that cases will have to be considered before it can be ascertained how far the order was proper. I can certify from personal experience of the working of the Act for many years that, in many cases decrees for larger amounts than the principal have been passed where the balance of the mortgage account found under sections 12 and 13 exceeded the principal.

15. With regard to section 14, the Commissioners, in paragraph 41 of their report suggest the extension of the discretionary power of regulating interest to all suits under the Act, instead of confining it to suits in which account is taken under sections 12 and 13. This suggestion has been practically anticipated by the Courts which reduce exorbitant rates of interest even in those cases where there is no past history of the debt to be inquired into This they do under the general powers of equitable revision conferred on them by section 12, which requires them to examine parties to ascertain whether there is any fraud, mistake, or undue influence which places the debtor at a disadvantage in his dealings with the creditor. Seeing that the operation of this section has been attended with the happiest results in moderating to some extent the abuses which prevailed before the Act, it seems desirable that the change suggested should be adopted so as to remove all possible doubts about the legality of the practice at present followed.

16. In paragraph 42 the Commissioners propose to repeal section 15. As this section has been for the most part inoperative like section 9, it may be repealed with advantage. Arbitration has its value; but in contested cases, and especially where the matters in contest are such as those which arise in the course of an inquiry into the history of a case under sections 12 and 13 if the Courts find difficulty, the arbitrators cannot fare better.

17. In paragraph 43 the Commissioners, while approving the principle of section 15A in regard to agricultural mortgages in the Deccan, observe that they do not understand the second part of the section. This second part refers to the provision that the Court shall not refuse to pass a decree for redemption merely on the ground that the mortgage-debt had not been completely discharged. The history of the additional sections (15A to 15D), introduced for the first time by Act XXII of 1882, furnishes the necessary explanation for the introduction of the second part of section 15A. In 1881, the High Court ruled (Bom. I. L. R., Vol. V., pages 604 and 614) that no mortgagor can sue for an account only under section 16 of the original Act. Later on, in September 1882, the High Court ruled (Bom. I. L. R., Vol. VI., page 734) that no redemption suit could be brought before the time fixed for redemption in the bond. These rulings defeated the main object of enacting section 16; and it was therefore, with a view to remove the defects noticed in this section and enable mortgagors to sue for an account, and also to sue for redemption before the time fixed, and to obtain instalments in redemption, foreclosure, or possession suits, that these additional sections were introduced. In the original draft of section 15A, provision was only made against the dismissal of redemption suits brought prematurely. When, however, it was provided that the mortgagor, bringing account suits, should be permitted to turn them into redemption suits, it became necessary to add the second alternative provision, *viz.*, that no such suit shall be dismissed simply because the account did not show that the debt was satisfied, and that a balance was left still due. If this latter portion were omitted, the conversion provided for in section 15D would, to that extent, be incomplete, and it was to remove this defect that the first draft section was amended in the way in which it now stands. This explanation will remove the doubt expressed in the report as to the object with which this latter addition was made to the section. It is not merely declaratory of the ordinary law.

18. In paragraph 44 the Commissioners approve of section 15B, and recommend that it should be made a part of the general law. They also suggest that the Court should have power of varying instalments on good cause shown. This latter suggestion is made with reference to the ruling of the Bombay High Court (I. L. R., Vol. XII, page 226), in which it was held that an instalment order could be made only once, and was not liable to variation. For the reasons stated by me more fully later on in paragraph 21, I think that this suggestion should not be accepted.

19. As regards paragraph 45, which relates to section 15C, the Commissioners express their view that there is no practical utility in retaining the section. Section 15C should not be, however, considered separately from section 15B, of which it is the supplement. Section 15B provides instalments in suits for redemption, foreclosure, or sale, and Section 15C provides for instalments in suits for possession. Such suits for possession are indeed not so common as suits for redemption or sale, but they are more frequently brought than suits for foreclosure; and the same grounds on which the Commissioners base their recommendation in favour of section 15B justify the retention of section 15C in its present form, as providing for the gradual liquidation of debts and the equitable adjustment of the burden of money payments to the circumstances of the debtor. The Commissioners think that the remedy of a redemption suit is open to the mortgagor; and when he brings such a suit, section 15B would come to his help, and that there is, therefore, no necessity for specially giving him any relief in the

mortgagee's suit for possession. This means only that two suits should be brought and litigation prolonged unnecessarily, when the same object might be attained in one proceeding. I do not think that this roundabout method possesses any advantage over the simpler plan followed by the legislature in giving relief directly to the mortgagor in the suit for possession.

20. Paragraph 46 refers to section 15D. While approving of the first and second clauses, the Commissioners suggest a modification which seems to be every way desirable. They propose that the Courts should allow an interval after judgment and before signing the decree, and give notice of it to the parties, so as to enable them to apply for the conversion of the account suit into a redemption suit. The practice of the Courts allows such time, but it will be as well to provide expressly for an interval between the judgment and the decree, and to give notice of it to the parties.

21. With regard to paragraphs 47 and 49, as also paragraph 44, relating to the award of instalments at the time of decree and subsequent to the decree in execution proceedings, and under section 15B, the report approves of the large powers granted by law to the Courts of awarding payments by instalments, and the Commissioners suggest that this discretion should not be limited to one occasion only, as has been ruled by the High Court (Bom. I. L. R. Vol. XII, page 326), but that it should be within the power of the Courts to vary their decrees from time to time, and even from year to year, in the matter of instalments. In my opinion, this latter suggestion will destroy the finality of the decrees, and will encourage the defendant-debtors to renew yearly applications for a reduction of the instalments, on the plea that their circumstances had changed. This practical difficulty is a very serious obstacle; and as real *boná fide* occasions for extending this relief are rare, the change does not seem to be desirable, though on purely theoretical grounds something can be said in its favour.

The Commissioners further suggest that the discretion to award or withhold further interest, when instalments are granted under these sections, should be taken away, and in all cases interest should be allowed as a condition for granting instalments. Such a condition, if made inseparable from an order for instalments, would detract greatly from the value of the indulgence shown. Sections 17 and 20 allow at present a wise discretion in such matters, and the Courts temper their orders according to circumstances. I do not think that there has been any abuse of the discretionary power conferred, and the condition about interest should not be made inseparable from an instalment decree. In paragraph 21 of the dissent recorded by Ráo Bahádur Krishnaji Lakshman Nulkar from the report of the Commission, this point is noticed, and he takes the same view which I have urged above.

The Commissioners further recommend that the condition frequently inserted in an instalment order, permitting the creditor to recover the whole sum on failure to pay one or more instalments, should be declared illegal. This proposal also has the defect of interfering with the discretion wisely entrusted to the Courts. An instalment order is an indulgence shown to the needy but honest debtor. The provision complained of ensures the honesty of the debtor by making it to his advantage to be punctual in his payment. It practically serves, therefore, a very important purpose, and I would deprecate in the interest of the creditor any hard-and-fast rule in this matter as strongly, as in the interest of the debtor I would deprecate the proposal to tack interest as a necessary adjunct to all instalment orders. One of the principles of the Act is to allow large discretionary powers to the Courts, and both these suggestions interfere with the free working of this principle. Statement XXIII attached to the report of the Commission shows that the discretion has been wisely exercised on the whole, and that in about 50 per cent. cases, instalment decrees are more or less regularly complied with by the debtors. No interference, therefore, seems desirable.

22. In paragraph 48 the Commissioners suggest that section 19 might be repealed as it has been all along inoperative. The sum of R50, which is the limit of indebtedness within which the section can alone be brought into operation, is so low that, even with the poor resources of the Deccan rayats, none among them needs any relief under this head if his liabilities are less than R50. The statement given in Mr. Woodburn's report at pages 106—108 shows that 47,469 occupants in the four districts, owning 11½ lakhs of acres assessed at 8 lakhs of rupees, had secured debts amounting to 44 lakhs, and unsecured debts amounting to 38 lakhs, which means that an average occupant, holding on an average 25 acres assessed at R17, owed about R150 as debt, or about nine times the assessment paid by him. The average earnings of an occupant and his family holding 20 acres were estimated by the Bombay Government to be R200. The Deccan Riots Commissioners estimated the value of an estate of an ordinary rayat to be R200 (see page 37 of their report). The limit of R50 thus appears to

be far below the line which makes the rayat lose credit with his sawkar, and this is the chief reason why the section has been inoperative; and as it will not be desirable to increase the limit, the provision may safely be repealed.

23. In paragraphs 50 and 51, the Commissioners approve of the provision abolishing imprisonment for debt, and the exemption of immovable property from attachment and sale for unsecured debts. In regard to standing crops, however, they recommend in paragraph 52 that the amount of the standing crops liable to attachment should be limited to one half and that this half should be sold subject to the payment by the purchaser of the Government revenue due on the crop attached. With reference to this recommendation, it has to be noted that, under the revenue system which obtains in this province, the Government revenue is a charge on the entire holding. Section 56 of Act V of 1879 lays down that arrears of land revenue shall be a paramount charge on the holding and every part thereof, and holding is defined in section 2 as consisting of all lands held by an occupant. The land revenue charge is not, therefore, so much the sum due from the particular area in which the crop attached has been raised, but is a sum due from the entire holding of the occupant, *viz.*, all the lands entered in his khate. This circumstance does not appear to have been noticed by the Commissioners in the recommendation made by them. As the law at present stands, the recommendation will thus be more or less unworkable; for if, when the whole crop is liable to attachment as at present, creditors are not very willing to run the risk involved in seeking to recover their debts by an attachment of the crops, they are much less likely to do so when only half the crops can be attached and sold, and the purchaser of this half has to buy the same with the liability to pay the assessment due for the entire holding. In other respects, too, the suggestion of limiting the liability to half the crops is open to question. The labour share in the bágáyat (irrigated) and fertile jirayat (dry crop) lands is never one-half. The expenses of cultivation being greater the share is $\frac{2}{5}$ths or $\frac{1}{3}$rd (see page 63 of the report of the Deccan Riots Commission) or even $\frac{1}{4}$th, according to the quality of the land. On both these accounts, the recommendation made will prove unworkable. The better plan will be to leave the law as it stands, so far as the quantity of the crops liable to be attached and sold is concerned, and to make standing corps movable property in the full sense of the word. Standing crops are only of value when removed. Under section 3 of the Registration Act, standing crops are treated as movable property. As the legislature has permitted their attachment in section 22 of the Relief Act, and so far taken away from them the character of immovable property, it is but fair that the attachment and sale of crops should be freed from the intricate and lengthy procedure laid down by the Civil Procedure Code in sections 274—284. It is the application of this procedure relating to immovable property to the attachment and sale of standing crops that leads to the delay, and the expense and the fraudulent sales, and the low prices realized, which form the subject of complaint. This suggestion has been made by all the Subordinate Judges in their annual reports from year to year, and it appears to be every way a more practical remedy for the evils complained of, than the one recommended by the Commissioners. The execution in regard to the attachment and sale of standing crops should certainly be effected by a transfer of the decree to the Revenue Agency.

24. Paragraph 54 of the report of the Commission refers to the insolvency chapter (sections 24—33). Although the provisions of this chapter have been rarely brought into operation, the Commissioners recommend the retention of a separate insolvency law. They suggest a doubt regarding the advisability of retaining section 26, and they propose an addition to section 29. I have no particular remarks to make about both these suggestions, as I do not expect that people in this country will ever seek advantage of the protection afforded by a declaration of insolvency, and Chapter IV will, therefore, continue to be as hitherto inoperative. The whole of this chapter was drawn up on the supposition that the sentiments of the people concerned would be of the nature of those which are prevalent in European countries, and are common in a commercial town like Bombay, where recourse to the Insolvency Court does no great harm to the poor insolvent, who again starts his life free from his old debts without much injury to his credits. This is, however, not the feeling in the rest of the country. People not only dislike to be declared insolvent, but feel horror at the idea, and the Commissioners themselves have noticed in paragraph 25 the fact that "the evidence recorded by them indicates, on the part of the majority of indebted rayats, a creditable anxiety to meet their liabilities, and here is something almost pathetic in the life-long struggle with a burden of accumulated debt, which some of them undertake, if not cheerfully, at any rate without complaint." With a people holding such sentiments as these, there is no ground for the complaint that the provisions of section 26 are too wide, and that power should be given to the Courts to disallow applications by judgement debtors who have been guilty of fraud or bad

faith. The addition suggested in section 29, *viz.*, of permitting the Collector either to take possession or to assess the land at full rent, is admittedly not workable in the Deccan, and the suggestion is only made with a view to extend the Act to other provinces. It involves, therefore, no change in the existing law.

25. Paragraph 55 of the report relates to Chapter V, regarding the system of Village Munsifs. The Government of India in their Resolution No. $\frac{\text{17 Judicial}}{\text{1497—1502}}$, dated the 20th November 1891, have expressed their opinion about the success of the system and their disapproval of the plan proposed by the local Government to limit the exercise of this jurisdiction to ministerial officers of the Courts. The elaborate inquiries made by Mr. H. F. Evans of the North-Western Provinces have demonstrated the success of the system, as it has been worked here and in the Madras Presidency, and the Commissioners in their report have concurred, with the results of the inquiries made by one of the members of their Commission (Mr. H. F. Evans), and affirmed the position that the system has worked well and is popular with all classes, and supplies a real want, and does not encourage the institution of petty suits which otherwise would not have been brought. The modifications suggested by the Commissioners under this head are—

(1) that Village Munsifs' Courts should be constituted under a separate Act intended for the whole Presidency;

(2) that Village Munsifs' Courts should not have exclusive jurisdiction, and

(3) that the appointments should be made for three years only.

With regard to the first suggestion, it may be noted that there is no occasion for a separate legislation. The Commissioners appear not to have noticed the amendment of section 1 made by Act XXIII of 1886, by which power was conferred on the local Government, with the previous sanction of the Governor General in Council, to extend wholly or in part the provisions of the Relief Act to any other district or districts in the Presidency of Bombay. This amendment virtually leaves no occasion for a separate enactment, so far as this Presidency is concerned. The second suggestion of giving concurrent jurisdiction to the Village Munsifs and the regular Courts in petty cases under R10 is borrowed from the Madras enactments. In that Presidency, however, every patel or revenue head of the village is *ex-officio* a Village Munsif. Under the Relief Act, there are no *ex-officio* Village Munsifs. The men are carefully selected after previous inquiries through two departments, and their numbers and the localities where they exercise jurisdiction are strictly limited. They are thus a far better class of people on the whole than can be secured under the *ex-officio* arrangement. Under these circumstances, there is not the same justification for conferring concurrent jurisdiction on the Courts, as is the case in the Madras Presidency. For the same reason, the proposal to limit the appointment to three years will only increase work without ensuring additional efficiency. Useless and unsatisfactory Village Munsifs can be got rid of without difficulty under the present arrangement.

26. Paragraph 56 relates to Chapter VI regarding conciliators, and paragraph 57 relates to the refund system in the non-conciliation talukas. The points in favour of the system elicited in this inquiry may be thus briefly stated—

(1) In paragraph 56, and also in paragraph 8, the Commissioners admit that the reduction of debt secured by means of agreements effected by conciliation was considerable, and the relief obtained by debtors under this system was appreciable.

(2) Mr. Woodburn's estimate, made after a careful calculation, that the system saved each Court on an average 50 contested and 175 uncontested cases each year, was probably not far wide of the mark.

(3) The system gives parties a better opportunity than they would otherwise have of coming together.

(4) The Commissioners note that the system affords to a considerable body of persons a cheap mode of obtaining redress;

(5) and appears to give rise to less ill-feelings between the parties than a regular suit.

(6) There is no evidence to show that the conciliators follow any mechanical rule in dealing with cases which come before them, or strike off percentage of claims arbitrarily.

(7) There is also evidence to show that the debtors are more ready to comply with the terms of the conciliation agreements than with decrees of Courts.

(8) The Commissioners also think that it would be a pity to lose any assistance that can with advantage be afforded by the people themselves in the administration of Civil Justice.

(9) Of two substitutes for unofficial conciliation suggested in some quarters, the Commissioners think that the advantages likely to arise from official conciliation are more than outweighed by the disadvantages.

(10) The working of the refund system has not shown any large results (paragraph 57).

While noting these points in favour of the system of unofficial conciliation, the Commissioners also refer to the considerations on the other side. These adverse considerations are—

(1) Against the gain in trouble and expense where conciliation is successful, must be set the trouble and expense caused to parties in the far larger number of cases in which conciliation is unsuccessful.

(2) Though many persons naturally prefer to have their disputes decided quickly and cheaply by an unofficial agency, which can be trusted to enquire sufficiently into the merits of the case, to act honestly, and to decide sensibly, and though such agency, where it is available, would be of immense public advantage, yet the system of unofficial conciliation under the Act is altogether different.

Under the Act the conciliator's sole function is to induce parties to agree. He has no power of requiring a witness or party to take oath. He can only receive such evidence as parties choose to offer, and he has no power to reject agreements, no matter how illegal, unfair, or unreasonable they may be.

(3) The system is opposed to one of the main principles of the Act, *viz.*, that the debtor is not on an equality with the creditor, and his admission of the claim is not of itself sufficient to saddle him with liability.

(4) Without strict supervision, which entails considerable trouble and loss of time, the system is liable to abuse.

(5) An advantage is taken of it to evade stamp and registration laws, and also the provision of the Relief Act regarding taking accounts, and those exempting land from attachment and sale.

The Courts have tried to check these abuses of their own motion by refusing to file such agreements, and the Special Judge has cancelled some agreements already filed. This procedure, however, was *ultra vires*.

(6) Lastly, there is a difficulty, and in some places an impossibility, of finding fit and proper persons to discharge these functions, and some Subordinate Judges and other witnesses, who gave evidence before the Commission, appear to entertain considerable doubts, not only as to whether the selections made were judicious, but also whether better materials were available.

Taking these reasons for and against the system into consideration, the Commissioners recommend an amendment of the law, by which it may be provided—

(1) that no conciliator shall record an agreement unless he considers it reasonable;

(2) that the conciliator shall draw up a statement of facts when an agreement is effected;

(3) that the agreements should be subject to stamp and registration laws;

(4) that such agreements should not be filed as at present, but parties should be allowed to sue on them;

(5) and in such suits the statement of facts should be *primâ facie* evidence;

(6) that no certificate should be required in suits before Village Munsifs;

(7) and that there should be a separate Act providing for all these matters.

27. I have thus tried to set forth the full substance of the views recorded by the Commissioners on this most important matter. Its importance will be gauged by the fact that, so far back as 1878, the Secretary of State in his despatch of December 1878, already referred to

above, recommended some form of conciliation as a very desirable improvement. In paragraph 30 of his despatch, it is stated that "the early meeting of the parties, in order to produce an amicable settlement of the suit so strongly insisted on by Mr. Bentham, is spoken of by the French authorities in the highest terms." The Bombay Government, in their reply (No. 2056, dated 18th April 1879, Revenue Department, paragraph 12) accepted the suggestion, with the modification that the Civil Judge should not also be a Conciliation Judge, and that the defendants' appearance should not be made compulsory, and the first Bombay draft Bill made provision accordingly. In the Statement of Objects and Reasons attached to the Bill, introduced by the Honourable T. C. Hope, the arrangement of disputes by conciliation, as far as possible, was stated to be one of the four objects for which the Bill was drafted; and after some discussion in Council, the suggestions of the Bombay Government were accepted by the legislature. In the subsequent inquiries which took place in regard to the working of the Act, the usefulness of this portion of the law was repeatedly affirmed. Mr. Woodward, in the concluding paragraph of his report, suggested that, among the provisions which he would gladly see extended to the other Deccan districts, was the proceeding before the conciliator precedent to the institution of a suit. Mr. Gonne's Committee affirmed by a large majority that "the system should be continued as it has effected much good, and its very existence, and the facility it affords for compromise, induce many parties to come to a settlement, who would otherwise have resorted to the Courts;" and they also stated that "they were not inclined to think that he abuses of the system were either frequent or formidable, and that the selections appear to have been made with every possible care and precaution." In the discussions which followed the submission of Mr. Woodward's report, Mr. Lee-Warner gave his opinion in favour of the system, and stated that he was inclined to extend rather than contract the system. Later on, in October 1884, in connection with the suggestion made by the Secretary of State about extending the Act to other districts, this question came up again for consideration; and in 1885 Sir M. Melvill, after reviewing both sets of opinions, recorded a minute in which he admitted that the system gave great relief to the Courts, and that it might be continued in the talukas where it was in force. The Bombay Government concurred with the Honourable Sir M. Melvill, and stated that, in their opinion, "many of the conciliators appointed are competent men, and much assistance was given to the Courts by this agency." In the discussions which took place in 1887, the Honourable Sir J. Peile, then Member of Council, included conciliation (arbitration) among the portions of the Act which he would extend to the other districts. The Honourable Sir J. B. Richey held, in 1888, the same opinion in regard to the conciliation system. These discussions led to the appointment of Mr. Woodburn on special duty. He collected opinions of revenue and judicial officers, the former set being generally in favour of the Act including the provisions regarding conciliation, and the latter more or less inclined to question its usefulness. This conflict of views between the revenue and judicial officers has been more or less characteristic of the discussions on this subject throughout the past 10 or 12 years, and has reproduced itself in the summary given above of the considerations for and against the system which the Commissioners have embodied in their report. The revenue point of view in such matters is, as the Honourable Sir J. B. Richey has observed in his remarks in 1889, the point of view which looks at the subject in its bearing on the condition of the people, and it is, in his own words, "the more important of the two." This importance does not appear to have been fully kept in view in the report of the Commissioners, who, by reason of the majority of the members being judicial officers, have laid far more stress upon the strictly judicial aspects of the question. The only Native member on the Commission differed from the rest in his views on this point, and in paragraph 20 of the dissent, Rao Bahadur Nulkar stated that "the defects noticed in the report of the Commission appear to admit of easy removal," and that "great care was taken in selecting the men," and that "there has been no complaint against them." "Even if some difficulty is found in some places about the selection of fit persons, that is hardly a sufficient reason to abolish the system in those parts where it has been found possible t provide competent men, and has worked well." Finally, Rao Bahadur Nulkar stated that "the alternative course suggested in the report would deprive the system of all vitality, and make it a dead letter." He therefore recommended the continuance of the system on its present line, and thought that "it would be a public misfortune if the labours of the last 11 years are thrown away by its abandonment."

28. Having thus stated the previous history of the discussions on this subject, I shall now proceed to the consideration of the points urged against the system in the report of the Commission.

The first point is, as stated above, that while there is a gain in time, trouble, and expense to the parties where conciliation agreements are effected, there is to be set against this gain

the loss of time, trouble, and expense in the far larger number of cases where conciliation fails. With reference to this point, it should be noted that, when the Secretary of State suggested the desirability of parties being brought together for amicable settlement, or, when the legislature deemed it advisable, to arrange for the settlement of disputes by private compromise, it could not have been contemplated that such amicable settlements should take place in all, or even in the majority of, cases brought before the Courts. There is only a fixed percentage of cases in which parties are disposed to compromise their differences. This fact is shown by the constant character of the percentage of cases compromised and admitted in all the Courts in the Presidency, this proportion being 19 per cent. compromised cases and 9 per cent. admitted cases during the past 10 years (see Statement IX attached to the report of Commission). About 30 per cent. of the number of suits brought in the Courts represents thus the possible margin within which amicable settlement is possible, and it is this work only which can be taken out from the Courts by arrangements made for the settlement of disputes before the institution of suits. It is not, therefore, quite reasonable to object to such an arrangement that, in saving time, trouble, and expense to the suitors in these 30 per cent. cases, the larger majority of the suitors in the remaining 70 per cent. of cases are put to needless expense of time and trouble. The expense complained of is a payment of 4 annas for each certificate taken out in unsettled cases; and as the average number of these certificates during the past 10 years appears to have been about 18,200 (see Statement XXVII attached to the report of the Commission), this represents an expense needlessly incurred of about R4,550 per year in the four districts. Against this expenditure needlessly incurred, we have to set the gain in the cases where conciliation is successful. Taking the average of the last five years' figures, it appears that claims valued at nearly 8 lakhs of rupees were settled after reduction by 26 per cent. at 5¾ lakhs of rupees every year. Taking 10 per cent. as the average costs of suits, this means that the saving in expense was between R60,000 to R80,000 per year. So much for the alleged consideration of additional expense.

As regards the loss of time and trouble, it must be noted that the conciliators being conveniently located in four or five places in a taluka, the trouble of applying to him is in all cases much less than going to the Courts; and when it is borne in mind that, as a rule, creditors seldom bring their suits without some form of dunning the debtors, the application to the conciliator, even when it fails, serves the purpose of a notice, and thus involves no addition to the trouble.

Taking the total of the last 11 years, both parties appeared before conciliators in 125,872 cases; and when they so appeared, agreements were effected in 78,941 cases, and parties failed to agree in 46,931 cases. These figures show that out of three cases where parties appear, agreements are effected in nearly two cases, and the failures were one in three cases. It is therefore not strictly accurate to say that the gain was more than balanced by the loss in the large majority of cases. Where defendants did not appear, they had no trouble to undergo, and they had the advantage of receiving a warning by way of notice of the plaintiff's claim. I have not included cases withdrawn in the above figures. They came to about 34,000 in 11 years. It may be presumed that these claims were withdrawn by reason of private settlement. If these withdrawals are included, the settlements bear to failures the proportion of nearly 3 to 1.

Looking at the evidence recorded by the Commissioners in Appendix I, it deserves notice that while some of the money-lenders complained of the reduction of their claims, none complained of the loss of time and trouble, and they all admitted that they were benefited by the saving of time and trouble effected by this agency (see pages 1, 20, 34, 36, 39, 57 and 70 of the Appendix).

The second objection noted above is an objection not to the working of the system but to the principle of the limited powers conferred on conciliators by the legislature. The conciliators were not intended to be an agency entrusted with the work of inquiring into the merits of cases brought before them and deciding them sensibly. These are judicial functions and it was never contemplated that the conciliators should act as Judges or even as arbitrators. Their function was to promote amicable settlements. The Secretary of State recommended the French system as a model for imitation; but the Bombay Government demurred to the proposal, and limited their functions as above stated. The wording of section 39 distinctly defines the conciliator's functions to be to effect an amicable settlement between the parties, and sections 43 and 45 contemplate that conciliators, even when they fail to induce parties to come to a settlement, should at least induce them to refer the matter to arbitration. It is hardly fair to the system, or to the agency employed in working it out, to condemn them for

not doing what they were never intended to do. The law distinctly lays down these limitations, and this objection questions the principle adopted by the legislature. As I conceive it, the objection is besides the point. In the large centres of English manufactures, the conflict is not between the sawkars and the debtors as in India, but between the capitalist employers and the wage-earning employés. In the disputes, which occur between these classes, arbitration is frequently resorted to; but it has been found by experience that, even in those countries, arbitration fails, and latterly conciliators have been selected by the conflicting interest to conciliate, and not to arbitrate, in the matter of these disputes. Mr. Jevon's work gives an account of these trade's union conciliators, and he speaks very highly of the success achieved by this agency. In Norway and Sweden and in many parts of the United States, as also in the Swiss Cantons, this plan is followed on a larger scale, and the Bombay Government's proposal appears to have been based on these models. The conciliator does formally what is informally done in this country by the friends on both sides to prevent a dispute from being taken to the regular Courts. If the parties are reasonable, they accept the compromise proposed by common friends. They are reasonable in a considerable minority of cases. If they are unreasonable, they go to Court, none being the worse for the attempt made to effect private settlement. Under these circumstances, this second objection appears to me to need no further consideration.

It is, however, urged in the report that neither the conciliators nor the Courts have power to refuse or to reject an agreement, however illegal, unfair, or unreasonable it might be, and that in this connection it is opposed to one of the principles of the Act, which gives no such binding efficacy to an admission of the claim made by the debtor, and that it virtually overrides the provisions of sections 12 and 13. In reply it may be stated that, if the agreement is illegal, the Courts have power, under rules framed by Government, to set aside such agreements; and in recent years, in 2 per cent. cases agreements have been set aside by the Courts on this and other grounds. The Commissioners themselves admit this fact. If, as the Commissioners think, these rules of Government are *ultra vires*, that may be a reason for amending the section relating to the rules; but it cannot be said that the working of the system is open to objection on this ground.

As to agreements alleged to be unfair or unreasonable, this is a question of comparison; and although in a few cases there may be grounds for holding that some agreements are not as fair or reasonable as a decree in a contested suit in a Court would have been, I do not think that suits compromised in Courts will be found to be superior to conciliation agreements in these respects. In a matter like this it is safer to judge by the total results for several years. The reduction secured before the conciliators have been on an average about 25 to 30 per cent. In the Courts the reductions or abatements secured are, with small variations from year to year, nearly on a level with the abatements effected by conciliation. It has been suggested in some quarters that, before the conciliators, the claim are needlessly exaggerated; but a careful comparison of the figures has demonstrated that this view is incorrect. More than half the certificates are filed in Courts (about 79,181 out of 152,494 were so filed during the last 9 years). The valuation of claims in these certificates agree with the valuations in the plaints, and this agreement shows that the reductions effected in Courts, as also by conciliators, have a common and, in fact, the same basis. Even in the Courts the cases to which sections 12—14 apply form but a very small percentage of the total number of cases decided, and the reduction due to the application of these sections would be a very inconsiderable figure. The reductions in Courts are chiefly due to the reductions in the rates of interest and partly to plaintiffs' failure to prove consideration, and partly to defendants' success in proving alleged payment. The reduction of interest is a resource as open to the conciliators as to the Courts, and the give-and-take process also roughly adjusts the final results. It is these circumstances which account for the agreement in the average proportion of abatements effected by conciliators and Courts. This result shows that, in the large majority of cases, these agreements are not open to the objection that they are unfair or unreasonable any more than the decrees in uncontested suits in Courts are open to similar objections. The totals of decided cases in Courts, it may be remarked, include 30 per cent. of cases compromised, and 23 per cent. of admitted cases under Chapter II, being more than 50 per cent. of the cases disposed of.

The best test that these agreements are not unfair or unreasonable in the estimation of the parties is, however, furnished by the fact that the repudiation of agreements in the execution stage is so very rare as to be almost unappreciable, and the Commissioners themselves admit that the debtors are more disposed to comply with the terms of conciliation agreements

than with the decrees of Courts. Last year the total number of darkhasts on conciliation agreements were 7,000, and there were only two repudiations. The amounts received and recovered in and out of Court exceeded R2,14,000, being 27 per cent. of the sum claimed. These figures leave but little room for the suspicion that these agreements are, except in a very few cases, either unfair or unreasonable. The admissions before conciliators are made under circumstances very dissimilar to those under which they are made in Courts. Before conciliators, the parties are more on a level with one another. There is no pressure on the debtor to admit what he need not admit. He is in his home among equals, and not before an official with large summary powers. As regards the operation of sections 12—14, it must be noted that it is only in complicated cases that they come into operation, and that these cases are seldom settled privately. There is not, therefore, much ground for the view that the system of conciliation offends against the principles of the Relief Act regarding admissions, and the inquiry into past history.

The fourth objection relates to the allegation that the stamp and registration laws are evaded by the parties by the help of these conciliation agreements. On this point I shall only remark that the Subordinate Judges take particular care to enforce the rules framed by Government on this behalf to check such practices, and the inspecting and supervising authorities do their best to enforce the strict observance of these rules. The fact that stamp and registration laws are not evaded in any perceptible degree, is proved by the large increase of registered documents from year to year, and also by the increase in stamp revenue. A few cases here and there may occur; but these are checked by the Courts *suo motu*, and account for a large number of the agreements, about 2 per cent. of the whole, which the Courts refuse to file of their own accord. If the powers exercised by the Courts are deemed to be *ultra vires*, that may be a reason, as stated above, for amending the rules, but it cannot be urged as an objection to the system as it is worked.

Lastly, it is urged that difficulty has been experienced in finding suitable men in all places and that the selections made were not judicious. On this point, it is only necessary to remark that no selection is made unless the gentleman to be selected is reported on favourably by the Subordinate Judge, the Mamlatdar, the Assistant Collector, and the Collector of the district. It is therefore not at all likely that all these officers should make a bad choice. Early in this year the strength of the body included 7 sardars, 39 inamdars, 25 sawkars, 8 vakils, 25 vatandars, 30 Government servants, 11 pensioners, 58 patels and kulkarnis, and 17 other well-to-do persons. A comparison can be safely challenged between the qualifications, social status and local influence of these 220 gentlemen with any other similar number of municipal commissioners or local Board members, honorary magistrates or jurors or assessors, selected by Government, who are entrusted with honorary and responsible public functions. The Local Government has repeatedly acknowledged their devotion to public duties, and even Sir R. West, by no means favourably disposed to the system, admitted the purity and general good intentions of the conciliators. The Government in their reply to the Secretary of State in 1885, as already stated above, admitted the competency of these men, and their public usefulness. The fact that during the last 12 years the vacancies caused by death or resignation have been invariably filled without delay by men, who stood the same severe test of satisfying the local judicial and executive officers is itself the best evidence that no difficulty is felt in finding suitable and competent men to undertake the work. It is true the system was discontinued in a few talukas be Dr. A. D. Pollen in 1881 and 1884, but this was done, not so much from want of confidence in the men chosen to act as conciliators, but because he thought that there was not much scope for this useful agency in some of the sparsely peopled and inaccessible talukas. The system was again re-introduced by Government in the Indapur and Khed Talukas, with the result that it has been found possible to amalgamate Indapur and Bhimthadi Talukas into the jurisdiction of one Court, and the litigation in Khed Taluka, which had before to be kept down by deputing an additional Subordinate Judge, was so largely intercepted by the conciliation agency that this assistance was no longer required, and the Khed Subordinate Judge has been able to render assistance elsewhere without detriment to the work of his Court.

I have thus briefly noticed the several objections which, in the opinion of the Commission, represent the weak points of the conciliation system. During the course of the inquiries instituted by the Commission, I submitted a summary of the views of the Subordinate Judges in the four districts, who, by reason of their practical acquaintance with the system, are entitled to be regarded as competent witnesses. With the exception of one or two Subordinate Judges, the rest were all agreed in their view about the general usefulness and success of the system. In the absence of any authorised notes of evidence of the witnesses examined

by the Commission, I can only refer to the notes of their evidence as published in the local newspapers at the time. It appears from these notes that out of 18 judicial offiers examined as witnesses before the Commission, 15 gave evidence in regard to the conciliation system. Excluding myself, my two Assistants and Dr. Pollen, there were 11 Subordinate Judges and one Assistant Judge among the witnesses, and all but Rao Bahadur Jayasatya Bodhrao Tirmalrao stated that the conciliators did good work, that they intercepted a considerable percentage of the litigation, and that people regarded the system as an advantage to them as saving costs, time and trouble; and some went so far as to say that people would resort to conciliation even if not required to do so. Mr. R. S. Tipnis, Assistant Judge at Thana, gave evidence to the same effect. Rao Bahadur Vishnu Moreshwar Bhide, pensioner, Subordinate Judge, gave similar evidence. Of the 13 revenue officers who were examined as witnesses before the Commission, 9 gave evidence in regard to conciliation, Messrs. Johshi, Vadekar, Despande, Thakar and Joglekar gave evidence to the effect that conciliators took interest in their work, and that the system was popular and worked well. Messrs. Nachne, Naik and Thopkar stated that people were indifferent, but added that they had heard no complaints. Among these revenue officers, Mr. Shahane alone expressed an unfavourable opinion. Of the non-official witnesses, Messrs. Limaye (pleader), Namjoshi (editor), and Gadre (sawkar) gave evidence in favour of the system. Mr. Natu expressed no opinion. The notes of evidence recorded by the Commissioners when travelling through the districts, if carefully studied, fully bear out the testimony of the official and non-official witnesses examined before them. The money-lenders of Bori and Varwand and the rayats of Pimpalgaon, Pargaon, Yewat, Patas, Karkamb, Dhond, Girim, Supa, Morgaon and other villages in two talukas of the Poona District, agreed in stating that the system saved money, time and trouble, and intercepted much litigation, and effected considerable reductions in the claims. The notes of evidence for the talukas in the Ahmednagar District are not so favourable, especially in respect of the evidence given by the sawkar witnesses. The notes of evidence given by the rayats and sawkars alike in the Sholapur and Satara Districts, however, fully corroborate the evidence given in the Poona District in respect of the success and usefulness of the conciliation system. Under these circumstances, it is not necessary to state fuller details about the evidence given in these three districts. Lastly, while public bodies and the press have not been very favourable to the other provisions of the Act, there has been a complete unanimity in the testimony borne in favour of the conciliation system by the Poona Arbitration Court, and the Poona Sarvajanik Sabha in their representations to Government, and by the Provincial Conferences in the Resolutions adopted by them from year to year. This almost unanimous testimony of judicial and revenue officers, and of non-official witnesses, is a point which militates against the view expressed in the report of the Commission that the system needs a radical change, and that it fails to achieve the purpose which the legislature had in view in constituting it on its present footing.

The limitations, under which the Commissioners propose to continue the system, would make it simply unworkable. The advantage of the system, as at present worked, is that it gives cheap and speedy relief where parties are reasonably disposed to settle their differences amicably. It was never intended to enforce private arbitration in disputes where parties were not disposed to listen to any settlement. The plan proposed by the Commissioners would subject the agreements to heavy stamp and registration duties, and would further compel parties to pay court-fee charges as in regular suits. There would neither thus be a saving of time, trouble, nor expense, and it is hardly reasonable to expect that people would resort to conciliators for the doubtful advantage of being allowed to put in, as *primâ facie* evidence, the statement of facts prepared by the conciliators. The principle of conciliation is not altogether unknown to the general law. Under Native rule, and before 1827 under British rule, reference to panchayats was the rule in all cases, and in the Code of 1827, these customary panchayat tribunals were recognized, and a special regulation was passed in regard to their working. Though this agency subsequently fell into disuse, the Procedure Codes of 1859, 1877, and 1882 have provided for the amicable settlement of disputes without reference to Courts, and for the filing of awards made by private persons. The Commissioners have, to some extent, gone out of their way in proposing restrictions on the freedom allowed to the parties by sections 527—531. The principle embodied in these sections has been adopted by the legislature in enacting the provisions of Chapter VI; and for the reasons stated by me in the foregoing remarks, the proposals made by the Commissioners will, I trust, be regarded as being of a very retrograde character, and not called for by the extent of the evils complained of. The remedy proposed is worse than the disease. At the most the complaints made affect a very small percentage of the agreements effected, and it can neither be fair nor politic to safeguard the risks in these few cases by limitations which

would make the whole thing unworkable. The remedy suggested by the Honourable Sir R. West, of entrusting these functions to the Subordinate Judges, has been tried, and, with a few honourable exceptions, it has been pronounced by the Commissioners to be a failure, the advantages being more than counterbalanced by the disadvantages attending it. It is true the conciliators have to be carefully selected, and they require the help of a sympathetic supervision. Carefulness of selection is, however, a condition which cannot be dispensed with when public functions have to be entrusted to an honorary agency; and as to supervision it is not too much to ask Government to undertake the duty where it desires to associate 200 and more respectable people to help in the administration of justice, and to relieve the Courts by intercepting 50 contested and 175 uncontested suits for each Court, and to effect a saving of time and trouble to the litigant classes, of R60,000 to R80,000 of expenses, and above all to establish better relation between the sawkars and the peasantry, upon whose mutual co-operation the prosperity of the country so largely depends.

29. In paragraph 59 the Commissioners recommend that, for reasons given by them in paragraphs 17 and 29 of their report, it is unnecessary to retain the elaborate system of inspection by a special staff as provided for by Chapter VII of the Relief Act and that the District Judges, who already have power to control the Courts, may also be invested with the power of inspection, supervision, and control of the conciliators. In paragraph 17 the Commissioners estimate the cost of working the Act at R57,500; and adding to it the excess of expenditure over receipts of the Civil Courts in the four districts, they put down the net cost to Government of administering the Civil Justice in the four districts at R1,20,000. In paragraph 29 the question is discussed whether the special procedure, safeguarded by revision, possesses any advantages over that afforded by the ordinary law. The points urged in the report of the Commission for and against the revision system may be thus set forth in parallel columns:—

For revision.	Against revision.
(1) Parties have shown preference for revision procedure in more than 50 per cent. consent cases.	(1) This preference is due to reduced fees; and, notwithstanding this advantage, parties prefer appeal to revision in nearly 50 per cent. cases.
(2) Parties seeking revision need not appear in person, and absence does not involve dismissal.	
(3) Revision Courts can revise *suo motu*.	(2) The power to revise *suo motu* was largely exercised at first, but latterly not much used, which shows that it has served its purpose, and is no longer necessary. On general grounds judicial decisions should not be interfered with except on an application by parties.
(4) A novel law conferring large discretionary powers on Courts in an ignorant community requires strict supervision to enforce uniformity and ensure justice.	
(5) Revision work has been done with great care and ability.	
(6) The procedure of revision is simpler than that of appeal.	
(7) and at first it possessed certain advantages.	(3) It has also disadvantages in that the right of parties to be heard is not fully secured, and the dual system works inconvenience and injustice.
	(4) It involves a great loss of power.

In the opinion of the Commissioners, the disadvantages outweigh the advantages, and they suggest, accordingly, that the system of appeal should be restored in the Deccan.

I shall now briefly discuss the objections noted above, urged against the usefulness of the revision system. As in the case of conciliation, the Commissioners' objections are really not objections to the working of the Act, so much as to the principles of policy which influenced the legislature in enacting the law as it now stands. The Secretary of State in his Despatch of 1878 laid it down that, in his opinion, the remedy for the evils complained of about the action of Civil Courts was to reconstitute the Courts, and one of the principal points of this reconstitution was to abolish appeals. In the words of the Secretary of State, the principle of summary jurisdiction *without appeal* up to a limited amount might be conferred on all Civil Judges in the Deccan. The Local Government accepted this principle, and 5 out of the 6 Judges of the High Court concurred in the view that the "system of revision would be an adequate substitute for the system of appeal." The Honourable Sir T. C. Hope, speaking on behalf of the

Government, gave effect to these views under the safeguard that a Special Judge, aided by one or more Assistant Judges, should make a circuit of the Courts, and inspect the records and supervise and control the working of the Act, and revise decrees and correct failures of justice not only when parties sought it, but where no such application was made. This point was much debated in Council, and in the third reading of the Bill the two sides of the question were fully brought out. In his final speech, the Honourable Sir T. C. Hope stated that the experience of the past has shown that the system of appeal is not efficient, and that it is *expensive, dilatory, uncertain* and *unsuitable*, and that the system of non-appeal has been gradually coming round into favour both in England and in India. He went on to state that, under the appeal system, the check of higher supervision was operative only in a small percentage of cases, and that even in this small percentage of cases it is the sawkar who appeals, and not the debtor class. The sawkar does it to prolong litigation. The objection about the inconvenience of the dual system of control, and the objection about the diminution of the right to be heard, were also noticed and answered, so that the Commissioners' recommendations simply seek to reverse the line of policy adopted by the legislature after full deliberation. Of course, if the working of this system has disclosed certain defects not anticipated, such a reversal might be to a certain extent justified; but the facts are all the other way, as I hope to be able to show in the sequel.

(1) With regard to the percentage of consent cases, the Commissioners appear to have based their opinion upon very insufficient figures. Statement III in appendix III to the report of the Commission gives the full figures for three years only. The figures for the other years, as gathered from the previous reports of the working of the Act, embrace a much longer period, and show that the proportion of consent cases was 12 per cent. in 1883, 16 per cent. in 1884, 17 per cent. in 1885, 25 per cent. in 1886, 33 per cent. in 1887, 37 per cent. in 1888, and 41 per cent. during the last three years. The noticeable point about three figures is the gradual increase of the percentage. While the proportion of consent cases has risen from 12 to 41 per cent., the proportion of refusals has correspondingly fallen. The details are only available for the past four years, and they show that, while the refusals were 43 per cent. in 1888, they had fallen to 34 per cent. in 1891; so that the place of refusals has now been taken up by the consent cases. It is not, therefore, strictly accurate to say that parties show a slight preference and that this preference is due to the advantage of reduced fees, and that, notwithstanding this advantage, the parties prefer appeal in half the number of cases. The fact is that appeals are preferred in only ⅓rd of the total number of cases between R100 and R500. In the remaining ⅔rds, Chapter II is applied with the consent of parties, and this circumstance leaves no room for the position taken up by the Commissioners in their remarks on this point. If the proportion of consent cases had not risen from 12 to 41 per cent., and that of refusals had not fallen as shown above, such a result would have been a distinct indication that the people prefer appeal to the revision procedure. As it is, the preference is clearly the other way in two out of every three cases. As regards the alleged advantage of reduced fees, it is very inconsiderable in amount, and, being a constant quantity, cannot explain the gradual increase in the proportion of consent cases and the fall off in the refusals.

(2) The number of revision applications, as given in Statement XXX of the report of the Commission, was 5,432, upon a total of 115,948 suits disposed of, which gives a proportion of nearly 5 per cent. Taking contested suits, the total for the same period was 41,821, which gives a proportion of 13 per cent. of revision applications in contested suits. The number of appeals in all the District Courts of the Presidency is on an average of several years 4,500, while the number of contested suits disposed of is about 30,000, and the average number of suits disposed of is about 122,000. These figures give proportions for appeals, which are on a level with these given above regarding revision applications. In regard to the manner of disposals of these applications, the reports on the working of the Act submitted from year to year show that decrees confirmed, amended and remanded, and reversed, bear, with slight variations, the same proportions under the revision system as in the case of appeals. So far as these figures are concerned, they show that the work done by way of revision applications is equal in quantity and quality to that of appeals, and this equality testifies to the fact that there is no vaild ground for the complaint that parties do not enjoy the same opportunity of having their cases properly heard under the revision system as under the appeal procedure.

(3) The advantages of the revision system, however, are not confined, as in the case of appeals, to the figures given in the above paragraph. Over and above the applications of the parties, the Special Judge and his Assistants inspected the records in 33,658 cases out of

56,234 cases disposed of during the past five years (1886—1890), which gives a proportion of 60 per cent. of cases inspected by the Special Judge and his Assistants. During the sittings of the Commission in Poona, I submitted for its consideration a memorandum giving details of the nature of this inspection work done by the Special Judge during the past three years. The Commissioners do not appear to have noticed the details furnished with this memorandum, for the report of the Commission contains no remark regarding it, and it only states that a far larger number of cases were taken up directly in the course of inspection by the Special Judge in the earlier years than in the years subsequent to 1885. As a matter of fact, the figures given in Statement XXX show only for these latter years the number of cases in which, after notice to the parties, the decrees were reversed or amended. For every single case so taken up, there were at least 50 others, in which the irregularities and illegalities of procedure were pointed out in written communications addressed to the Subordinate Judges of the Courts inspected. As the law provides that no decree should be interfered with unless the irregularities lead to a failure of justice, I made it a rule not to take up these cases on the file of revision applications unless there was an admitted failure of justice, and contented myself with pointing out the irregularities to the Courts for their future guidance. During six months of the year, this work takes up most of the time of the Special Judge and his Assistants while on tour, and the circumstances stated above account for the smaller number shown in the statement. It is not, therefore, correct to state that this work of inspection has now ceased to be necessary, as remarked in the report of the Commission. This supervision and inspection of the records of decided cases constitutes the chief advantage of the revision system over appeals. The revision takes place not by an inspection of the returns, as in the case with the revision procedure under the criminal law, but by the inspection of the records of decided cases on the spot, after personal conference with the Subordinate Judges in many cases. As has been shown above, this inspection work extends to 60 per cent. of the decided cases. Under the ordinary law, the District Judge seldom can move out of headquarters, and his supervision and control are confined to 3 or 4 per cent. cases which come before him in appeal. Under the revision system this proportion extends to 65 per cent. of decided cases, and might be more, but for the fact that during the monsoons the Special Judge's Assistants have been during the past few years deputed to help the District Courts to clear off their arrears.

(4) Another advantage of the revision system over appeals is that generally no decree is reversed without the record of the case being examined both by one of the Assistants and by the Special Judge. The Commissioners' remark, that this involves loss of power, is evidently due to some misunderstanding. It is always safer in setting aside a decree to rely upon the opinions of two presumably superior Judges differing from the view taken by the Lower Court as a ground for interference. Of course, the Assistant gives only his opinion, the responsibility of final decision rests with the Special Judge; but he derives an advantage from having the opinion of his Assistant.

(5) Besides these two advantages which the revision system enjoys over that of appeals, there is the further advantage of quick disposal of revision applications. As a rule, the revision applications are generally disposed of within three or four months from the date of filing. In the case of appeals, the usual period averages 12 months. This difference is very material to the litigant parties. District Judges are not to blame for the delay, for they are not able to take up civil work by reason of their other duties as regularly as the Special Judge can.

(6) The saving effected by way of costs is also a material element to be considered in this connection. It is not possible to estimate the average cost of an appeal; but it cannot be less than that of an original suit, which is 10 per cent. in suits under Chapter II, and about 20 per cent. in suits under the ordinary law. There are no appreciable costs in revision cases. This saving of 20 per cent. cost is a feature which seems to have not been noticed by the Commissioners when recommending that appeal should take up the place of revision. One of the principal objects aimed at by the legislature in passing the Relief Act was to *simplify* and *cheapen* the administration of justice, and this saving in the delay and costs of an appeal is a point which should not be lost sight of in the consideration of the relative merits of the two systems of revision and appeal.

(7) The Commissioners in their report appear to me to confound two very distinct questions. The question of the relative merits of revision *versus* appeal is not identical with the question whether revision work should be entrusted to District Judges or to a separate Special Judge. As regards the general question, it deserves notice that, out of the witnesses examined by the Commission, 11 witnesses were questioned in regard to their opinion about the revision system. Out of these 11 witnesses, one witness, Rao Bahadur Ganpatrao Amrit Mankar, stated that the system of revision had no advantage over that of appeal; Rao Saheb Manohar Vishnu

Kathwate, Subordinate Judge, stated that the system of revision had worked well, but that at present there was no necessity for it, and appeals would do as well; Dr. A. D. Pollen stated that, under the revision system, cases are disposed of more quickly, although the Special Judge had to work harder than he did when he disposed of appeals; Khan Bahadur Navroji Dorabji Khandalewalla stated that the system of revision worked very well, and exercised a good check upon Subordinate Judges, and that supervison by revision was more thorough than by appeal, and this system made the Subordinate Judges go more thoroughly into every case; Rao Bahadur Vishnu Moreshwar Bhide, pensioned First Class Subordinate Judge, stated that the revision system was preferable to appeals, and that it has had the effect of making Subordinate Judges more careful in their proceedings; Mr. Ramchandra Keshav Limaye, Pleader, District Court, Poona, stated that the system of revision was better than appeals; Mr. Govind Mahadev Gadre, Sawkar and Pleader, stated that he approved of the system of revision; Rao Bahadur Ramchandra Dinkar Paranjpe and Rao Saheb Abaji Vithal Purohit approved of the system.

(8) The Commissioners in their report observe that the present arrangements introduce a double system, which leads occasionally toi nconvenience and even injustice. As an instance of this alleged injustice, the Commissioners refer to a case reported in I. L. R., Vol. XV, page 650, in which the High Court held that the Special Judge had no jurisdiction to grant a review of his own order on the ground of the discovery of new evidence. I cannot see who this ruling illustrates the inconvenience and injustice of the dual arrangement. What it ruled was that Section 74 of the Relief Act did not lay down the procedure to be followed by the Special Judge. This defect in the law may justify an amendment of Section 74, but it does not support the remark made about it in the report of the Commission. As regards the inconveniences noticed by the Commissioners, they appear to have been reproduced from the objections urged in the debate of the third reading of the Bill, and to which the Honourable Mr. T. C. Hope replied to the satisfaction of the majority of the Council. The incoveniences urged by the minority in Council were chiefly that the parties would have no assurance of having their cases heard as a matter of right; that cases would be taken up at a distance from the homes of suitors, and that there would be no check upon the Subordinate Judges. In reference to these three objections, the experience of the past 12 years shows that, as a rule, no cases are disposed of where the parties desire to attend before the Special Judge, without his issuing notice to them of the time and place when and where their cases would be taken up and heard. Practically, notices are issued, and parties appear in nearly one-half of the cases disposed of, and no case is reversed or amended without full opportunity being allowed to the parties to attend and present all the arguments in their favour. As regards distance when the Special Judge is on tour during seven months in the year, many difficult cases are fixed for hearing in the talukas whence they come, and are disposed of then and there in the presence of the parties. Lastly, the Subordinate Judges have had no reason to complain that they have to obey two masters. The separate jurisdictions are clearly defined, and I do not, during the past seven years that I have been in charge of this work, know of any occasion when there has been a conflict between the Special Judge and the District Judge. Both are bound by the same laws, and are subject to the jurisdiction of the High Court which, as was anticipated by the Honourable Sir M. Melvill, has as large a power of regulating the procedure of the Special Judge in its extraordinary jurisdiction, as it has in the case of District Judges in its ordinary jurisdiction.

(9) Lastly, the question of expense alone remains to be considered. Mr. Woodburn's estimate of the additional cost to Government being as high as R1,42,740, has been reduced by the Commissioners in their report to R1,20,000. Out of this (R1,20,000), R57,500 only represent the net cost of the additional establishments. The remaining R62,500 represent the cost of the additional Courts. As these Courts were created under express orders from the Secretary of State, and on the special recommendation of the Deccan Riots Commission, and must continue independently of the question whether the system of appeals or revision is preferred, I need not take this figure into consideration. As regards the sum of R57,500, it must be noted that the receipts shown in Statement XXXV of the report of the Commission have to be deducted from this total, because the charge on account of conciliation and Village Munsifs has been included in the total of expense given in the report; on an average, these receipts may be estimated at R10,000. Out of the remaining R47,500, the charge on account of two Assistant Judges and their establishments must also be deducted, because it is admitted that the District Judges will not be able to dispose of the additional work that will be thrown upon them without the help of at least one Subordinate Judge in each district. This opinion is based upon Mr. Woodburn's statement (see page 66), based as that statement

is on the reports of the District Judges (see pages 138—182 of Mr. Woodburn's report). This charge, with travelling allowances and contingencies for two Subordinate Judges, will come to R18,500, which will have to be deducted from R47,500 shown above. Moreover, I have shown in my report to Government (No. 289, dated 16th August 1890) that the four District Judges will require two more Assistants if they are expected to do the work of inspection and supervision of the Courts, conciliators and Village Munsifs satisfactorily. I cannot do better than quote here paragraph 6 of that report:—

"It deserves, however, to be noticed that, while the Special Subordinate Judges will relieve the District Judges in respect of the duties of inspection so far as judicial work proper is concerned, the Special Subordinate Judges can only help them indirectly by recording their opinions on revision cases. The responsibility of deciding these cases will rest entirely on the District Judges themselves, and to that extent the work of civil of appeals now disposed of by them will receive a very material addition. The reports of Judicial administration for the past four years show that the institutions in the four District Courts of Civil appeals were 5,161 in all, and that the disposals in the same four years were 5,207. Of these disposals, the four District Judges between them disposed of 3,169 appeals, or less than ⅔rds of the institutions. Their average disposals were 200 cases per year for each District Judge. In the same four years there were two Assistant Judges in 1885, 4 in 1886, 3 in 1887 and 4 in 1888, and these officers disposed of 1,465 appeals. There were, besides, First Class Subordinate Judges with appellate powers, 1 in 1885, 3 in 1886, 2 in 1887, and 1 in 1888, who disposed of in all 673 cases The four District Judges thus, with the assistance of an average of 3 Assistants and 2 Subordinate Judges with appellate powers, were able to dispose of 5,307 appeals. The average of yearly disposals representing the work of all these officers was thus 1,325 cases. The average number of appeals filed in the four District Courts was a little less than 1,300. A statement is submitted herewith showing the work of the Special Judge and his Assistants during the past year. It was prepared to furnish information called for by one of the District Judges. It will be seen from that statement that the number of revision applications was nearly 600 last year. If this work is transferred to the District Judges, it will represent an average addition of 50 per cent to the file of Civil appeals in each District Court. This addition of 50 per cent. work cannot be met adequately by the provision of one Assistant only to the District Judge. It will be necessary to have an Assistant and a Subordinate Judge with appellate powers for each district, if the work is to be at all satisfactorily disposed of. This would entail additional cost on Government which, at the lowest estimate, would come up to the cost of the present Special Judge and his Assistants. These considerations go to show that, so far as financial saving is concerned, the additional cost which Government will have to incur by the transfer of work would very nearly swallow up the savings likely to be effected by this arrangement."

The two additional Subordinate Judges will represent an expenditure of another R18,500, which will have to be deducted from the balance found above, leaving about R10,000 as the only additional charge which might be saved to Government by the abolition of the Special Judge's post. The excess charge is thus reduced to a very small figure, and it will be for Government to consider whether the advantage of a single officer, devoting his whole time to this work and controlling the working of the Act in the four districts on one system, instead of distributing this work and responsibility in four separate places, with the risk of conflicting methods which such a distribution would involve, whether this advantage is more than enough to counterbalance the small saving which alone is likely to result from the proposed transfer of work.

30. In paragraph 60 the Commissioners recommend that the Village Registrars should be abolished, and that the registration of simple bonds should be made optional, and that all sales, mortgages, and leases, of immovable property for more than a fixed period should be in writing and registered at the head-quarter of the taluka. These recommendations are made on the ground that the advantages of the system are more than outweighed by the expense and trouble to the parties, the doubtful character of the agency, and the untrustworthiness of much of the evidence which the system affords. In regard to this recommendation it appears to me that the Commissioners did not consider how far the Taluka Sub-Registrars would be able to cope with the work which will be thus thrown upon them. The latest report of the Registration Department shows that out of nearly 120,000 instruments registered under section 56 of the Releif Act by nearly 155 Registrars, about 30 per cent. instruments alone related to movable property, or were simple bonds. The remaining nearly 70 per cent. instruments related to immovable property, and their number was 83 000. If the whole of this work was to be transferred to the 40 Taluka Registrars, it would represent an addition of 2,000 instruments for each officer. Under the general law the Taluka Registrars in the four districts registered, in 1890-91, 35,347 instruments in all, giving an average of 900 instruments for each office. In other words, the transfer of work proposed by the Commissioners would involve an addition of more than twice the work which the Taluka Registrars are called on at present to perform. The complaint about the loss of time and trouble is not confined to the Village Registrars only, and the untrustworthiness of the agency, and the collusive recitals of consideration in bonds, are also objections which (if the reports submitted

to me by some of the Subordinate Judges may be accepted as true) are not confined to the class now proposed to be dispensed with. These considerations do not appear to have been sufficiently present to the minds of the Commissioners, though they have a material bearing upon the practicability of the recommendation made. So far from removing all grounds of complaint, the proposed transfer will duly intensify them in nearly ¾ths of the instruments which will still have to be registered. The collusive recitals of consideration is a circumstance which affects simple bonds much less than the instruments relating to immovable property; so that no advantage will accrue to the public by the transfer of work as proposed. There will, no doubt, be an apparent saving to Government of nearly R13,000, which is the net excess of expenditure over receipts from registration under section 56. Mr. Woodburn estimated the excess at R26,000 (see page 60 of his report). I suggested the smaller figure as being more probably correct, and Statement XXXI attached to the report of the Commission confirms my estimate. This sum of R13,000 represents a gradually diminishing figure. The difference between receipts and expenditure was R18,000 in 1889-90, R25,000 in 1888-89, and R23,000 in 1887-88. This deficit is, however, more nominal than real, because all agriculturist instruments above R100 have, since 1887, been registered by the Taluka Registrar, and the fee receipts levied in regard to them are not credited to the account of Village Registrars, but they go to swell the net excess of receipts over expenditure under the general Act. The Inspector General of Registration and Stamps, in his letter No. 2027, dated 15th September 1888, to Government, has brought out this point clearly by showing that the falling off in the realizations of the village registration system (between R17,000 and R18,000 in 1887-88) under section 56 is more than counterbalanced by the gains (about R22,000 in 1887-88) due to this of transfer work to the Taluka Registrars under the general law. There is, thus, really no loss to Government in the retention of the village registration machinery. It is a case of mere transfer of credits and debits. I have already shown that there is no public advantage likely to result from the transfer, and that the arrangement suggested is impracticable. I would therefore deprecate strongly any proposal to give effect to this recommendation. Even if the system checked forgery of documents, it is again in the interests of the debtor classes. The Riots Commissioners in their report attached a very great importance to this relief, and its usefulness has not been diminished during the past twelve years. If the Village Registrars are placed directly under the supervision of Mamlatdars or Subordinate Judges, many of the complaints now heard will be easily remedied, and the deficit will be gradually reduced on the plan of linking two offices hitherto followed. I attach great value to the statistical information thus supplied to Government from year to year, for it enables Government to feel the pulse and watch the variation of credit dealings all over the country. The Commissioners have expressed an opinion that many dealings take place on khate account without the execution of bonds. This circumstance, however, does not detract from the comparative value of the information supplied regarding registered documents, for, after all, dealings on account occupy relatively a very small place in the annual borrowings of the indebted agriculturists.

31. In paragraph 62 the Commissioners recommend that uniform periods of limitations of three and six years should be provided for unwritten and written transactions in place of the periods of six and twelve years laid down in section 72 for agriculturist debtors only. The *Dam Dupat* rule does, no doubt, force creditors to bring their suits earlier than the law requires. Still, as was shown by me in the summary furnished to the Commission, out of 970 cases, suits were brought in 440 cases after three and within six years, and out of these 440 cases, suits were brought in 86 cases beyond six years. Similarly, out of 382 cases decided in 4 talukas, 76 cases were brought within six years, and 29 within twelve years. These figures show that the provision for the increased periods of limitation has not proved altogether inoperative. As the rates of interest become moderate, it will be found that the *Dam Dupat* rule will not force the hands of sawkars to the same extent as it does when the rates are heavy. The Commissioners themselves have admitted this tendency towards a moderation in interest rates in paragraph 41 of their report. Under these circumstances, the smaller periods of limitation proposed do not seem to be in the interests of the classes sought to be benefited. The Deccan Riots Commission Report fully describes the evil effects of the three years' limitation in increasing litigation and adding to the difficulties of the debtors. The larger periods were deliberately adopted by the legislature, and have led to a considerable decrease of litigation, and no change, therefore, seems to be necessary in the present state of the law. There can, however, be no objection to extend the relief to non-agriculturists by making the limitation periods uniform for both agriculturist and non-agriculturist suits.

32. The only remaining sections which call for notice are sections 10, 33, and 73. The Commissioners propose to abolish revision and substitute the remedy by way of appeals in all these sections. For the reasons stated by me in paragraph 29, I am of opinion that no change is called for in the provisions of sections 10 and 33. As regards section 73, I would suggest that, as questions of status are often of considerable importance, they should be open to revision like any other questions decided by the Subordinate Judges in the exercise of their jurisdiction under Chapter II; and in cases where an appeal lies to the District Court, an appeal should freely be permitted from the decision of the lower Court on this point. The law as it stands makes the decisions of the Court of first instance final, which has been understood to mean not open to revision or appeal. The change suggested in this section appears, therefore, to be desirable with the condition attached to it, that the decisions of the Court of first instance should be open to appeal or revision according to the nature and valuation of the suit.

33. I have thus, in the foregoing remarks, attempted to state my views with reference to the modifications proposed in Part II of the Report of the Commission in regard to the detailed provisions of the Relief Act. These remarks have extended to a greater length than I had at first anticipated. It was, however, necessary to state both sides of the questions fully to enable Government to come to a final decision upon the question at issue. The elaborate nature of the inquiry, and the great authority which naturally attaches to the high officials who were entrusted with this work, made it necessary that I should state my views fully, and support them by references to facts and figures whenever I found it necessary to venture upon expressing doubts about the modifications suggested in the report of the Commission. I have been associated with the working of the Relief Act almost from its commencement, and have always looked upon it as an experiment, upon the success of which depended larger interests than those connected with the relief of agricultural distress in the four districts. It was an experiment to reform the law of procedure and to invest Courts with larger equitable powers, so as to introduce greater elasticity in the hard-and-fast strictness of the ordinary law which recognizes no difference between party and party, and between the simpler and more complicated litigation. The admitted success of this experiment after twelve years' trial will justify the action of Government in extending the experiment elsewhere. It is because many of the modifications suggested by the Commissioners run counter to the spirit in which this experiment has been conducted, and would undo in a few years much of the good work that has been done, that I have found it necessary on this, perhaps the last, occasion when I shall have an opportunity to state my views, to submit them as fully as the importance of the subject required, for the consideration of the Local Government and the Government of India with whom the responsibility of the final decision rests.

34. To state briefly the points of difference and agreement, it will be enough to state that, while the changes proposed in the report of the Commission in section 7, clause 2, section 9, section 15, sections 15 B and D, and section 19, appear to be unobjectionable, I strongly deprecate the changes proposed in the remaining sections referred to in the summary given above in paragraph 4 as being either of a retrograde character, or inconsistent with the principles of the Relief Act, or unnecessary, or impracticable.

From W. H. Crowe, Esq., District Judge, Poona, to the Secretary to the Government of Bombay, Judicial Department,—No. 2157, dated Poona District Court, the 31st October 1892. No. 75.

I have the honour to submit the following observations on Part II of the Report of the Commission appointed to enquire into the working of the Deccan Agriculturists' Relief Act, 1879, called for in Government Resolution No. 4659, Judicial Department, dated 27th August last. It is to be regretted that whereas the report contains *in extenso* the evidence of such witnesses as were examined by the Commission in the course of their local enquiries no memorandum of the evidence of the official witnesses, consisting of the District Judges, Assistant and Subordinate Judges, Deputy Collectors, and Mamlatdars, has been furnished. I propose to adhere to the order adopted by the Commission which is mainly that of the sections of the Act in their numerical order.

2. I observe at the outset that in paragraph 63 at the end of the 2nd part of their report the Commission have stated their general conclusions that subject to the modifications proposed

they consider that the Act should not only be retained in the Deccan, but may with advantage be extended to other provinces where the problem of agricultural indebtedness has presented itself. I consider, therefore, that any detailed criticism of the principles of the Act would be altogether out of place here. In my report submitted to Government as District Judge of Satara on 21st November 1888, No. 3909, I gave my opinions at length on the principles of the Act. I have seen little occasion to modify the opinions then expressed, but I conceive that the circumstances require that I should approach the subject now from an altogether different standpoint.

3. *Section* 2.—With reference to the definition of the term "Agriculturist" the Commission observe that it is probably as satisfactory as it can be made I am of opinion that the definition should be so framed as to exclude an inamdar who not cultivating lands himself derives his income from rents received from his tenants. It was never intended, nor is it desirable, to extend to the landlord class the benefits of this Act, whereas by the insertion of the words "or tenants" in the terms of the definition, the meaning is sufficiently wide to include them. I would insert the words "members of his family" in place of the word "tenants." It is also necessary that some provision should be inserted making it imperative that parties in order to secure the benefits of the Act should come within the definition at the date of the contract.

4. *Section 73.*—I concur in the recommendation that this section should be repealed, and that an appeal on the fact of the status of the party should be allowed.

5. In paragraph 29 the Commission discuss the relative merits of the systems of revision and appeal and come to the conclusion that the objections to the system appear to outweigh its advantages. I do not agree with that view. On the ground of cheapness, of rapid disposal of cases, uniformity of procedure, and interpretation of the provisions of the Act, I think it is desirable that this provision should be retained. Closely connected with this point is that of the propriety or otherwise of retaining the special machinery for inspecting the work of the Courts and carrying out generally the provisions of the Act. I therefore propose to submit my observations on this point in this connection. Though it is probable that some saving may be effected by abolishing the staff of the Special Judge and his Assistants, I am emphatically of opinion that such a course would be inadvisable. It is true that Section 9 of the Bombay Civil Courts Act lays down that a District Judge has control over all the Civil Courts and their establishments within his district, and that it is his duty to inspect the proceedings of all the Courts subordinate to him, but practically Judges have no time for such inspection. Few districts have an Assistant Judge; the arrears are in most districts heavy, a fact regarding which explanation is from time to time demanded by Government or the High Court; so that it is almost out of the question for the Judge to find time to go on circuit and examine the Subordinate Courts. I attach also considerable importance to a uniformity of interpretation of the provisions of the Act, which can only be adequately secured by a single presiding officer. If the work now performed by the Special Judge and his Assistants were thrown on the District Courts, it would be necessary at once to appoint an Assistant Judge to each of the four districts to dispose of the appellate work, and certain itinerant officers would also be required for inspecting the work of conciliators, Village Munsifs, etc. Having regard to the fact that the present incumbent of the office of the Small Cause Court Judge is on reduced pay, I am doubtful whether there would be any material saving to counterbalance the corresponding disadvantages.

6. *Section 3.*—I agree that this section requires revision so as to exclude suits to which non-agriculturists alone are parties.

7. *Section 7, Clause 1.*—I do not recommend that this clause should be repealed. I think its provision has a tendency to make parties vigilant, and the Court has a discretion to fix a case for final disposal or otherwise.

Clause 2.—I fully endorse the views of the Commission with regard to the retention of this clause and the proposed alteration of the law. In my report above referred to, I recommended the extension of the provision regarding the compulsory examination of the defendant to all suits of whatever description, and I think it might very properly be applied generally to ordinary litigants.

8. *Sections 8, 9, 11, 12, 13, 14.*—I fully approve of the views set forth by the Commission with regard to these sections, and I think that too great stress cannot be laid on the principles enunciated at the close of paragraph 40 of the Report that when the parties are not on an equality the onus of proving both the good faith and the consideration should fall on the party possessing the advantage. Some modification of Section 2 of Act, XXVIII of 1855 (the Act to repeal the Usury Laws) and the Contract Act is necessary in order to give full scope to the principle that it is the duty of a Court to interfere in setting aside an agreement to pay interest on the ground that undue advantage has been taken by one party of the other's ignorance or necessities.

9. *Section 15.*—There is no objection to the repeal of this section.

10. *Section 15A.*—The provision in the first part of this section is a departure from the ordinary principle of the law of mortgage that the right to redeem is co-extensive with the right to foreclosure. As the Commission observe, time is very probably not of the essence of the contract in ordinary petty agricultural mortgages. Only one class of investment is open to the money-lenders and capital set free by the termination of one transaction is immediately available for a repetition of the transaction with another client. The first part of the section it is desirable to retain; the second part is altogether superfluous, especially if liable to be misconstrued by the Courts into depriving a mortgagee of his security before his debt is satisfied.

11. *Section 15B.*—I agree with the proposal to make the provisions of this section of general application, but I do not think it desirable that an order as to instalments once passed should be capable of being varied. There would be no finality, and every instalment decree would be subject at the instance of the debtor to indefinite variation.

12. *Sections 16, 17, and 18.*—I concur in the recommendations of the Commission.

13. *Section 20.*—I agree with the proposal to continue the power given to the Courts to direct payment by instalments; but for the reasons given above, I cannot approve of the recommendation that such order shall be subject to eternal variation to meet the circumstances of the judgment debtor. The Courts, as a rule, have a tendency to make the instalments very small and to extend them over a long period. In the case cited by the Commission, a debt of R 200 was made payable by yearly instalments of R 5. This of course was a flagrant abuse of discretion, as the interest alone of the debt at 6 per cent. would amount to R 12 per annum. But, where an agriculturist debtor is unable to pay moderate instalments, any attempt to bolster him up by reducing the instalments would probably prove ineffective and would be purchased dearly at the cost of introducing want of finality in all instalment decrees.

14. *Sections 21, 22.*—I see no objection to the continuance of the provisions of these Sections and to the extension of the provisions of Section 22, Clause I, to agriculturists in other parts of India prospectively,—keeping in view the object of the Act and the opinion of the Commission that the Act should be retained for that purpose. I approve of the limit proposed to be imposed on the attachment of standing crops. Clause 2 of section 22 might also, subject to the proposed modifications, be retained.

15. *Chapter IV.—Insolvency.*—With regard to this chapter I must admit that I have not had sufficient experience of its working to enable me to give an independent opinion. The testimony of those engaged in working the Act is conclusive that the law has been practically inoperative. With the exposition of the principles of insolvency procedure and the necessity for some sort of insolvency procedure in the Act, and with the modification of the law in accordance with those principles, I agree.

16. *Chapter V—Village Munsifs.*—I concur in the view of the Commission that the establishments of the Courts of Village Munsifs have no connection with the question of agricultural indebtedness, and that the constitution of such Courts might properly form the subject of separate legislation; and judging from the returns of the number of suits instituted in these Courts and the opinion formed by Mr. H. T. Evans, it would appear that these Courts supply a want and work well.

17. *Chapter VI—Conciliation.*—One of the most important features of the Act as originally drafted was the introduction of the principle of conciliation. After weighing the arguments used by the Commission, I am not prepared to recommend any of the amendments suggested by the Commission. It appears to me that the Commission have to some extent misconceived the functions of conciliators and that they have under-estimated the amount of work performed by this agency. It appears from the returns in Statements XXVI—XXVIII,

Appendix IV, that during the eleven years from 1880 to 1890 the number of applications made to conciliators was 446,822. The number of cases disposed of by agreement under section 44 was 78,941. It appears, however, that 34,048 cases were withdrawn and 113,163 were struck off for default. In these cases there was no opportunity for effecting an agreement by the way of conciliation, and therefore those should be excluded in calculating the percentage of cases where conciliation has been successful. Excluding those cases, the percentage is 26·4 per cent. instead of 17·6 as assumed by the Commission. The difficulty of finding fit and proper persons to discharge the functions of a conciliator is one which one may fairly assume will become less year by year; and in those talukas where no suitable persons can be found, no one will be appointed, and the requirement of conciliation before suit will not apply there as remarked by the mover of the Bill. The proposals of the Commission that no conciliator shall record an agreement unless he considers it reasonable, that he shall also draw up a statement showing what the facts as stated by the parties are, that the agreements so recorded shall be subject to the ordinary Stamp and Registration Laws, that parties should sue on them as on ordinary agreements, that the statements drawn up by the conciliators shall be deemed by the Court *primâ facie* evidence of the statements made by parties to the conciliators would, in my opinion, be found absolutely unworkable. These proposals are all, in my opinion, foreign to the idea of the conciliation system as orginally conceived, and appear to be based on a confusion of the functions of a conciliator with those of an arbitrator. The system thus hampered and fettered could afford no promise of success, and so far from giving material relief to the Courts would add largely to their work, or would remain a dead letter.

18. *Refund System.*—The refund system has no particular connection with the objects of the Relief Act, but there is no doubt that it is fair in principle, that it holds out an inducement to parties to settle their disputes at the earliest possible stage, and that it may properly be tried in connexion with the general law.

19. *Village Registration.*—The whole system should be abolished at once. The modifications suggested in the Registration Law are desirable.

20. *Limitation.*—I concur with the proposals of the Commission as to the law of limitation. Two separate laws applying to different classes of the community are objectoinable.

21. To sum up: the points on which I venture to differ from the views expressed by the Commission are—

(*a*) the necessity for an amended definition of the term "agriculturist;"

(*b*) the retention of the revision system in preference to the right of appeal and therewith the desirability of retaining the special staff;

(*c*) the retention of clause 1 of section 7;

(*d*) the proposal to empower the Courts to vary instalments from time to time;

(*e*) the retention of the conciliation system in *statu quo*.

22. These are all the remarks which I have to offer on the proposals of the Commission. I have had the advantage of consulting two or three of the most experienced Subordinate Judges in this district and also some of the most capable of the Pleaders in the District Court, and I have in some respects been influenced by the views they have expressed where my own opinion was not very decided.

No. 76. From J. W. WALKER, Esq., District Judge, Satara, to the Secretary to the Government of Bombay, Judicial Department,—No. 2172, dated Satara, the 18th October 1892.

With reference to Government Resolution No. 4659 of the 27th August last, Judicial Department, I have the honour to submit the following observations on the report of the Commission as to the Deccan Agriculturists' Relief Act. I concur generally with their opinion stated in Parts I and II.

Act should be re-drafted clearly.

2. The Act should be amended both by the exclusion of some sections alluded to by the Commission, and by being clearly re-drafted, more especially as to Chapters II and III. One ambiguity of the Act will suffice in illustration. The Commission say (page 49, section 43) that section 15A does not provide that "a Court can oust a mortgagee before the mortgage-debt is

paid." But the High Court has held (*Kisandas* vs. *Muktabai*, P. J., 1888, page 287) that it does. The exercise of such a power could hardly have been intended, and the power should obviously be restricted to cases in which the mortgagee consents.

Agriculturist.

3. An appeal should be allowed from a finding that a person is or is not an agriculturist, as suggested by the Commission, but it should be made within the time allowed for an appeal from an order in a suit. Otherwise there would be unnecessary re-hearings if the finding as to status was ultimately reversed on regular appeal.

The definition of the word should include, as now, a person who was an agriculturist when the liability, which is the subject of the suit, was incurred, but who had ceased to be an agriculturist at the date of the suit; but it should *exclude liabilities incurred by non-agriculturists*, though the person who incurred the liability had at the time of the suit become an agriculturist, or was represented by an agriculturist, or though his rights had passed to an agriculturist.

If a sawkar lends money to, or takes a mortgage from, a trader, a non-agriculturist, and the non-agriculturist's rights passed at the time of the suit to an agriculturist, I fail to see on what principle of equity the case should be treated exactly as if the loan had been made to, or the mortgage taken from, an agriculturist. When the money was lent to a non-agriculturist the parties knew their rights and duties under the general law, and the bargain was made by both under that law; why then should the accident, that the right of one party passes to an agriculturist or that the party himself becomes an agriculturist at the time of the suit, be held to bring in a special law passed for a particular class? Why should contracts between non-agriculturists be upset under a special law, the application of which was not in the least foreseen at the time by the parties themselves? This was not provided by the Act at first (P. J., 1882, page 424, and P. J., 1884, page 203); but now, when a mortgage was effected by some dancing girls who were not agriculturists, one of them, who had subsequently become an agriculturist, was allowed to redeem under the Act (P. J, 1896, page 159). Many cases of hardship, especially as to mortgages, have come before me; and it is not uncommon for a non-agriculturist mortgagor to qualify as an agriculturist or transfer nominally his right to an agriculturist, so that the redemption suit should be brought under the Act.

Small Cause Court powers, page 34, section 29, last clause.

4. If Small Cause Court powers are re-introduced—and I certainly think they should be—I see no reason for exempting suits in which the history has to be ascertained and accounts are taken. Such suits before the Second Class Subordinate Judges would be petty suits, and my experience is that these suits present no special difficulties.

History and Accounts, page 36.

5. The Act should distinctly provide that a "Court enquiring into the history of a case is not to eke out by mere guesses a history which is defective. The proper course is to start from the point where reasonable certainty begins" (P. J., 1887, page 216).*

Instalments, page 50, section 49.

6. The High Court has held that an order for instalments once made under the Act, whether in the decree or in the course of the execution, cannot be subsequently varied (P. J., 1887, page 184). And the law should be clearly altered as suggested by the Commission.

As to the general law, it may well be considered whether some discretion should not be given to a Court on failure to pay an instalment. As the law stands, the slightest default in payment of an instalment compels the Court to enforce the penalty provided in the decree on default. Some discretion, similar to that in section 15 B (2) of the Act, should, I think, be given to the Courts.

Arbitration awards, page 52, section 58.

7. As to the proposal to amend section 525, Civil Procedure Code, I do not understand how a Court can ordinarily decide, when an application to file an award is made to it, whether there has been a real dispute. If both parties wish to make out that there has been a real dispute, how can the Court get at the true facts till some third person who is actually interested in the matter, comes forward? If, as often happens, the object is to start a suit with the

* NOTE.—Up to the passing of this decision, the Courts generally did take the amount of each bond, to be made up of half principal and half interest, when making up accounts.

object of disposing a third person by proceedings taken under section 331, Civil Procedure Code, there is no greater objection than there is to a collusive decree or to a collusive deed. As a general rule, a person who claims adversely to both the plaintiff and defendant in a suit cannot be joined as a party. He can bring a separate suit, or, if in possession, resist any attempt made to dispossess him in execution proceedings. It seems to me quite useless to attempt to decide whether a transaction is collusive or not, where both parties to it wish it arrived out; the rights of third persons, not parties, are quite sufficiently protected under the general law. I see no objection, however, to requiring such awards to be registered.

As to awards, which are merely renewals of existing obligations, sections 520 and 521 of the Civil Procedure Code give the Courts sufficient powers before filing the awards.

Whether any and what steps should be taken to prevent the stamp laws being evaded is a question which it is unnecessary to discuss now.

Village registration, page 63, section 60.

8. The general opinion appears to be that Village Registrars are not trustworthy, but it is undoubtedly a great advantage that the forgery of bonds is almost entirely stopped. In Gujarat, where there is no compulsory registration of money bonds, the time of the Courts is largely taken up with deciding whether the bond sued on was executed by the defendant or not. And I know of no class of suits in which it is more difficult to come to a conclusion on the merits.

If village registration is continued an option should be given to register any instrument which is not compulsorily registrable under the Registration Act before the Sub-Registrar instead of the Village Registrar.

And some provision should be made as to the admissibility of an instrument which is not executed before a Village Registrar, though the person executing it is actually an agriculturist, if that person describes himself expressly or impliedly as a non-agriculturist. Cases have occurred in which a person, really an agriculturist, describes himself in the deed as a trader for instance, and then, when a suit is brought on the deed, pleads that he was an agriculturist, and the document is not admissible as it was not executed before a Village Registrar. In the case of many persons it is obviously most difficult for the sawkar to know whether he is dealing with an agriculturist or not.

Limitation page 65.

9. The question of a long or short period of limitation was fully discussed when the Act was passed (*cf.* Bombay Government Selections No. 157, as to the passing of the Act, pages 172, 173, 269, etc), and I concur generally with the Commission. But the Commission wrongly include article 64 of the Limitation Act as to account stated, with bonds for a limitation of six years. A reference to article 64 is misleading, as the *khatas*, or acknowledgments of accounts by agriculturists, are not "accounts stated" as referred to in the Limitation Act (I. L. R., Bom., 414; I.L.R., 6. Bom., 134 and 683).

Extension of Act.

10. If the Act is extended to other parts of India, a distinction may well be taken between the procedure to be adopted in suits where the cause of action arose before the Act and in suits where the cause of action arose after it came into force. Where a mortgage-deed, for instance, is executed under the provisions of the Act before a Village Registrar, it hardly seems necessary to compel a Court to go into the history of the transaction from the outset, unless a *primâ facie* case was made out that there had been any fraud or deception practiced on the agriculturist. For a general Act, which, I think, might well now be substituted in the Deccan, and extended to other parts of India, all that would seem to be necessary is to provide that—

(1) an agriculturist cannot be imprisoned on a money decree;

(2) his immoveable property cannot be attached or sold unless specifically pledged and one-half the standing crop cannot be attached;

(3) the Court to ascertain fully an agriculturist's defence to a suit, if any, before proceeding with the hearing;

(4) the Court to have power to set aside a contract and take accounts and do substantial justice between the parties (subject to a decision on regular appeal), where it is satisfied that owing to the ignorance of one party, or the fraud or deception practised, or undue advantage taken by the other party, the contract is inequitable; and

(5) rules as to village registration, if any, payment by instalments, and limitation.

Extract from the Proceedings of the Government of Bombay in the Revenue Department,— No. 5785, dated Bombay Castle, the 15th July 1892. No. 77.

READ—

Letter from the Under Secretary to the Government of India in the Revenue and Agricultural Department (Statistics), No. 2584—38, dated 18th December 1891.

"In continuation of the letter from this Department, No. 1481—20, dated 20th July 1891, paragraph 4, in which it was suggested that a well devised scheme for the correct registration of transfers of landed property might be concerted by the Government of Bombay in correspondence with the Government of Madras, I am directed to enclose the extracts marginally noted, having reference to the submission of transfer applications to revenue and registration officers and to enquire whether, in the opinion of the Governor in Council, a similar procedure might not be adopted, with advantage, in the Presidency of Bombay."

1. Madras Standing Order No. 20, containing rules for the transfer of registry of holdings.
2. Extract, paragraph 16, from Madras G. O. No. 759, dated 6th September 1889.
3. Extracts, paragraphs 53 and 54, from the Madras Land Revenue Report for 1889-90.
4. Extract, paragraph 15, from the Madras Government Proceedings, No. 827, dated 4th September 1891.

Letter from the Director of Land Records and Agriculture, No. 1277, dated 20th May 1892:—

"With reference to Government Resolution No. 5801, dated 25th August 1891, Revenue Department, I have the honour to report on the several points noticed in the Government of India's letter.

"2. *Form A 1, Column* (*2 a*).—I would suggest that the area of Feudatory and Tributary States, hitherto omitted, might be shown as returned for the General Administration Report of the Presidency (*vide* Statement (2) C—Civil Divisions, Statistical Returns). The Administration Report Returns embody the results of all surveys of Native States as published, and for unsurveyed States give rough or estimated area. I can obtain the figures from the compiler each year.

"3. *Form A 2, Column* (*6*).—Sub-heads of irrigated area.—The staff of Circle Inspectors referred to by the Government of India in the correspondence quoted, is being introduced as the revision survey is completed in the districts. It does not seem desirable to take action on the lines indicated by the Government of India till the system is in working order for the Presidency, and the orders of Government to that effect have already been received (Government Resolution No. 4125, dated 13th June 1890, Revenue Department).

"4. *Form D*.—The tally proposed of 'Prescribed Form (column 1), Heads 5 and 6 with Bombay Form, Head I, A and B, will be correct. Under Heads 1, 2, 3, 4 (*b*), the tally with Bombay Form, Heads 2, 3, 4, 5, 6, 7, will also hold good, but changes will have to be made in the shape of the Bombay Fiscal Returns, as the Jamabandi Reports, which supply the figures now submitted by this Department for the Government of India, contain no detail of the value of individual estates showing the 'average revenue from each estate only.'* To obtain this detail four columns will have to be added to the Mamlatdar's Returns under Jamabandi Return No. VII, with headings to show 'Revenue-payers, classed according to the value of their holdings' as required by the Government of India. These will be embodied in the Collector's compilations and again in the Commissioner's Divisional Jamabandi Reports.

* Jamabandi Return No. VII, column 7.

"The statistics can thus be made to fit into the uniform return for the whole country. The Government of India insists, further, that the provincial statement must be totalled. Hitherto this Presidency alone of Indian provinces has declined to total its statement on the ground that the totals would be of no value. It is obvious that this contention is well founded, because, when we show in column 2 over a million and a quarter rayatwari khalsa estates of peasant proprietors averaging 22¼ acres, and under all other tenures 5,055 estates averaging 1,866 acres, the total averages under these heads must be vicious and misleading. The same remark applies to the other averages. But other provinces (as, for instance, Madras, where the disproportion in the various tenures is equally well marked, have regularly totalled their returns, regardless of the false inferences conveyed. The question is one for the decision of Government after consideration of these remarks.

"5. *Form E.*—Register of Land Transfers.—The system of registration under the Land Revenue Code cannot be made to supply the information required. I will quote here, for

convenience of reference, the remarks of the Committee appointed under Government Resolution No. 4323, dated 29th May 1884, Revenue Department:—

"'*Conference Form No. I, E 5, Fisal.*—The Register of Transfers is the last form to be discussed. It is, except so far as the record of transfers of the tenant area is concerned, made obligatory on Local Governments. In this Presidency we could not prepare the information for the tenant area in the form required.

"'In Village Form No. XVIII, B, transfers *are* recorded and in rayatwari khalsa Government villages, the details *can* be given by a sub-division of the transfer column into—

"'(1) Transfers by order of Court.

"'(2) Do. by private contract or gift.

"'(3) Do. by inheritance.

"'We do not think that the information would be of value. The conveyance of the proprietary rights of a survey "holder" does not necessarily carry with it a corresponding transfer in the accounts.

"'The right of occupancy is distinct from the other proprietary rights in the land A man may possess the right of occupancy and yet have no share in other rights in the land

"'No doubt it was on account of the small significance of recorded transfer that they are omitted from the District Form (Huzur Form XXI, L) which summarizes the other details of the Village Form (XVIII, B) in which they appear.

"'These are—

"'(1) The extent of land voluntarily thrown up.

"'(2) The extent of land forfeited to Government on failure of payment of assessment.

"'(3) The extent of unoccupied land taken up.'

"It is not necessary for me to add much in proof of the impossibility of adapting the present Land Record to the requirements of the Government of India by a mere modification of detail. The only transfers, which are *regularly* recorded, and transfers to heirs by succession and transfers by decree of Court (sections 70 and 71, Land Revenue Code). The record of other transfers (as under sections 74 and 79) is permissive; generally speaking, the registration of private transfers is not obligatory, and is in most cases not carried out. The *khata* entries are in fact worth very little, and they are especially valueless for the object which the Government of India has in view—the ascertainment of transfers of land from the cultivating to the money-lending classes. So completely is this the case that in some districts a practice has grown up of specially reserving the right of registration as occupant when a transfer takes place, and this right is occasionally made the subject of a separate sale-transaction. This is the more peculiar as the advantages of *khata* registration are limited and remote, while the registered Khatedar is, as such, under the Land Revenue Code, primarily responsible for the land-rent.

"It is therefore clear that if the wishes of the Government of India are to be met in this particular, legislative changes must be made. I avoid reference in this place to the provisions of the Deccan Agriculturists' Relief Act, which applies only to selected districts. The question is one of great importance and intricacy, and the amendments in the law, which may be necessitated, can hardly be determined without the assistance of the Legal Remembrancer and the fullest consideration by His Excellency the Governor in Council. The effect of such changes would be far-reaching and would affect more particularly the operation of the Registration Department and of the Civil Courts. In the Punjab the record of rights (to which the Bombay system would be assimilated) carries proof presumptive of proprietary title. Personally I am of opinion that compulsory registration of transfers might be introduced with advantage, or that the provisions of the Land Revenue Code should be so altered as to make nugatory, more or less, transfers not registered, so that the interest of transferees would lie in registration. But I advance this opinion with much diffidence, and I would suggest, for the consideration of Government, that a committee might be appointed to report upon the whole question during the approaching monsoon season, to include the Revenue Commissioners and the Legal Remembrancer.

"6. I have perused the papers* furnished by the Madras Government relating to the system there followed. This is, however, purely permissive, and the Madras registers cannot therefore exhibit a complete record of transfers effected.

* Received with Government memorandum No. 258, dated 13th January 1892, returned herewith.

If the system is to be imitated in this Presidency, it will be necessary to make a further study of the inducements which the Madras regulations offer towards registration."

Memorandum from the Director of Land Records and Agriculture, No. 1279, dated 28th May 1892.

Letter from the Government of India in the Revenue and Agricultural Department (Statistics), No. 1257, dated 28th May 1892.

RESOLUTION.—The suggestion made in paragraph 2 of the Director's letter is approved and should be carried out.

2. Government concur in the opinion expressed by Mr. Cappel in paragraph 3 of his letter.

3. The Commissioners of Divisions should be requested to report on the alterations in the present fiscal returns proposed by the Director in paragraph 4 of his letter. The instructions of the Government of India that the provincial statement in Form D should be totalled, must be carried out, but they may be informed that for the reasons given by Mr. Cappel, the conclusions to be drawn from these totals will be misleading and inaccurate.

4. His Excellency the Governor in Council is pleased to appoint a Committee composed of the Commissioners of Divisions, the Remembrancer of Legal Affairs, and the Director of Land Records and Agriculture, to consider and report on the question discussed by the Director in paragraphs 5 and 6 of his letter regarding the preparation of Form E.

5. A copy of this Resolution, with the Director's report, should be forwarded for the information of the Government of India, with reference to their letters Nos. 1481—20 and 2584—28, dated, respectively, 20th July and 18th December 1891.

[True Extract.]
W. L. HARVEY,
Under Secy. to the Govt. of Bombay.

Accompaniment to Government Resolution No. 5785, dated the 15th July 1892. No. 78.

MADRAS STANDING ORDER NO. 20.

Rules for the transfer of registry of holdings.—As it is of importance that the register of holdings kept in every village should, as far as possible, show the names of persons who are the real owners, or who in virtue of their title, whatever its nature, are in enjoyment of the lands, and should therefore be held responsible for the payment of the public demand thereon, the following rules are laid down for regulating the procedure to be adopted in effecting changes of registry in the revenue accounts when transfers of landed property take place.

2. All legal transfers of property take place either by the voluntary action of the owners, or by virtue of decrees of Court or Revenue sale, or accrue by succession; and in dealing with these three classes of transfers the following procedure should be observed in altering the registers.

3. *Voluntary transfers of title.*—These are of two kinds—(*a*) Absolute and (*b*) Temporary :—

(*a*) In all cases of absolute transfer of title by a registered holder, the registry of a holding may be altered to correspond with the transfer of its ownership on the application of both the parties to the transfer or of either of them, provided that the application for change of registry is in every case made in person or by duly authorised agent and in writing, and is signed by the party or parties making it, and attested by the Karnam and the head of the village in which the land is situated. Such attestation may be taken as evidence of the identity of the party or parties. Where such an attested application is presented by both the parties, the Collector or other duly authorised officer may at once order the change of registry as requested. But where only one of the parties to the transfer makes the application for change of registry, it should not be acted upon by the Collector or other duly authorised officer, unless a duly executed and registered deed evidencing the transfer is produced and the said officer is satisfied of its genuineness. He should then give notice in the District Gazette that the transfer of registry has been applied for, and unless objection is made to it within three months from the date of publication of such notice, the transfer should be ordered at the end of that time. A copy of the

notice should also be served on the registered holder of the land in the manner prescibed by section 25 of Act II of 1864, Madras. If objection is made, an enquiry should be held, and, according to the result thereof, the transfer should be ordered or not.

(*b*) In the case of a temporary transfer of property by the registered holder, *e.g.*, on lease, mortgage, etc., the registry should not be altered unless both the parties to the transfer present a joint application in writing to the Collector or other duly authorised officer requesting that it may be effected. Such application must be attested by the Karman and the head of the village where the land is situated.

4. *Compulsory transfers of title.*—In cases of transfer of title in holdings from registered holders to decree-holders with reference to a decree of Court, or to purchasers at auction-sales held in execution of a decree of Court, the Collector or other authorised officer may, on the application of any of the parties to the suit or of the auction-purchaser, and on production of an authenticated copy of the decree or certificate of sale, as the case may be, and a certificate of delivery of possession in pursuance thereof, at once order the change of registry. In cases, however, in which a certificate of possession cannot be produced, as for instance, where, on decree passed, possession is ceded without execution proceedings and the decree is apparently final, the case should be dealt with as provided in clause (*a*) of Rule 3 in regard to applications for change of registry presented by only one of the parties to the transfer.

In cases where transfer of registry is sought under a declaratory decree on which no execution can be taken out, *i.e.*, where the decree merely declares the title to be vested in a particular person, so as to entitle him to registration, the Collector or other authorised officer may, on production of an authenticated copy of such decree, at once order the transfer of registry.

5. *Transfers of title by succession.*—Under this class of transfers all cases of change of registry, necessitated by the death or the prolonged absence for more than seven years of the registered holder, would be disposed of.

In dealing with claims to succession by heirship, if the succecssion is not disputed, the Collector or other duly authorised officer may direct the transfer of registry either at once or at the jamabandi. If the succession is disputed, he should hold a summary inquiry as to who has the right to succeed to the property of the deceased register holder, according to the principles of the law of succession which governs the case, and give notice in the District Gazette to the effect that the registry will be made in the name of the person found to be entitled, unless a declaration is filed, within three months from the date of the notice, by any person objecting to the registry, stating that he has instituted a suit in a Civil Court to establish his superior title, and an authenticated copy of the plaint in the suit is produced. If no declaration is filed, the registry should be made, as stated in the notice, at the expiration of three months. If a declaration is filed, the result of the suit should be awaited before taking further action. The notice, besides being published in the District Gazette, should be personally served on all persons who may have advanced claims for the registry at the summary inquiry. With regard to the entry of names of the heirs of the deceased pattadars, in the case of undivided families, the name of the managing member or members should be registered; in other cases the names of the heirs entitled to shares in the property should be registered.

In case of disappearance, for more than seven years, of the registered holder of a holding and in the absence of any evidence to show that he is still alive, he should be considered as dead, and registry transferred accordingly. In all cases in which there are no heirs who claim the registry, it may be made in the name of the person in possession of lands after the usual notice in the District Gazette.

6. Where parties who have no documents of title are shown in a summary inquiry to have been in possession and to have paid the revenue as reputed owners for twelve years or more, transfer of registry may be made after notice, etc., as provided in Rule 3 (*a*).

7. Applications for change of registry may be made either to the Collector or to the Divisional Officer of the Division, or the Tahsildar or the Deputy Tahsildar of the taluk or firka, or to the Taluk Sheristadar, or the Revenue Inspector of the firka in which the land, the registry of which is sought to be changed, is situated, or to Registration Officers when conveyances are presented for registration. On the death of a registered holder, the Karnam of the village should at once report the fact to the Tahsildar, with the names of heirs of the deceased as far as he can make them out. The Collector or Divisional Officer or Tahsildar

may finally dispose of all such cases and direct changes of registry either of their own motion, or, in the case of the Collector or Divisional Officer, on the inquiry and report of the Tahsildar or Deputy Tahsildar, but Deputy Tahsildars are not competent to direct such changes to be made without reference to higher authority. Deputy Tahsildars in zemindari tracts, however, may dispose of applications for inam transfers and of claims to succession to inam property.

8. In every case of absolute transfer of landed property by a deed of conveyance or of transfer of possession by any other kind of instrument intended to be registered in an office of registration of assurances, it is the duty of the Registrar or the Sub-Registrar, before registering the document, to ask the parties to the instrument whether they consent to the transfer of revenue registry of the land conveyed or transferred, and if they consent, he should, after registering the document, cause them to execute before him an application to the Revenue authorities in the appended form, and should transmit it, after execution, to the Tahsildar of the taluk in which the land is situated. The Tahsildar should accept the application as proof of the consent of the parties in the same manner as if the appilication had been personally made before him, and should give effect to it at once as far as the particulars of holdings given are found to be correct.

9. The above rules apply also to transfers of registry of enfranchised inam holdings and of tree pattas; but transfers of registry of permanently-settled estates or portions thereof can only be effected by Collectors themselves in the registers kept in their own offices as provided by section 8, Regulation XXV of 1802. Portions of permanently-settled estates, however, should not be registered as separate estates until the public assessment has been previously determined and fixed on the separated portions by the Collector with the approval of the Board of Revenue. The procedure to be followed in such cases is that laid down in Madras Act I of 1876.

10. In the case of applications for change of registry made before Registration Officers, as well as those made before Revenue Officers, no transfer should be effected if the pattadar gives notice before the transfer that he has withdrawn the application made by him.

11. Application for transfer of revenue registry executed before Registration officers, as well as those presented before Revenue Officers, should be stamped under the Court Fees Act, the fee being one anna when the application relates to temporarily-settled land, and eight annas when it relates to other lands. Lands held under patta and subject to a change of assessment fall under the former class, and all others under the latter. The Registration Officer should inform the applicants that their applications will not be considered by the Revenue Officers if they do not bear the requisite stamp.

12. It is of great importance that the registers should be kept with care, as it is to the registered holder that every Collector must look for the revenue due from the land.

Form of Application referred to in paragraph 8.

I, A. B., son of , residing at , request that the revenue registry of the lands referred to in the attached schedule and registered in my name may be transferred to the name of C. D., son of , residing at .

(Signed) A. B.

I, the aforesaid C. D., consent to have the revenue registry of the lands entered in the schedule transferred to my name.

(Signed) C. D.

Taluk.	Village.	Survey Number.	Sub-number.	Irrigated or dry.	Extent.	Assessment.	Nature of Transfer.
1	2	3	4	5	6	7	8

Executed before

(Signed)

Registrar or Sub-Registrar.

N.B.—In the case of zemindari estates, inam villages, etc., the land should be described by boundaries as in the documents registered and the inability of the parties to furnish all the particulars referred to in the schedule should not stand in the way of the application being executed if they furnish sufficient information for the identification of the lands.

If the transfer refers to tree pattas the word "trees" should be substituted for lands in the body of the application; the words "on which the trees stand" should be added to the heading of columns 3 and 4 in the schedule, and heading of column 6 should be altered into "Number and description of trees."

Form of Application for transfer of patta, recommended for adoption in Board's Proceedings, 26th November 1886, No. 2568.

I or we (as the case may be) son or sons of , residing in the village of in taluk, do hereby request that you will be pleased to get the lands specified in the schedule hereunder attached, and the patta for which stands in my name (or in our name) transferred in the name of , son of , residing in the village of .

(Signature)

I or we named above do hereby consent to have the pattas for the lands specified in the schedule transferred in my or in our name.

(Signature)

Schedule.

Taluk.	Village.	Survey Number.	Sub-number.	Whether nunjah or punjah.	Extent.			Amount.			REMARKS.

Both parties affixed their signatures before us this day of 18 . Those that have affixed their signatures to the first part are pattadars.

Kurnam.

Nattamgar.

No.

Decision.

The village officers have been ordered to have the transfer effected during Fasli, as requested by both parties.

Tahsildar.

Date

No. 79. *Extract from Madras Government Order No. 759-R., dated 6th September 1889, on the settlement of the Madras Presidency for the year ending 30th June 1888.*

16. *Application for transfer of registry holdings.*—The system of presenting applications for the transfer of registry of holdings to Registration Officers worked successfully, the number of applications thus presented being nearly one-third of the total number dealt with in the

Applications presented through Registration Department	40,455
Applications presented directly to Revenue Officers	85,510

Revenue Department. There appears to have been a want of promptitude in disposing of these applications in the districts of Cuddapah and Tinnevelly, in which the balance of cases remaining undisposed of at the end of the year was 1,022 and 1,898, respectively. The Collector of these districts should be called on for explanation. The Board are requested to state whether the figures given by them include cases of transfer of registry in undisputed cases of succession dealt with under paragraph 5 of Standing Order No. 20. In future reports the Government will be glad to be informed of the extent to which the provisions of Rule 6 of the Standing Order have been put in force with a view to secure correspondence between ownership and revenue registry in cases in which owing to neglect in the past the registry was not transferred with the ownership.

Extracts from the Madras Land Revenue Reports for 1889-90. No. 80.

Paragraph 53.—Applications for Transfer of Registry of Holdings presented to Registration Officers.—Of these, 2,814 applications were pending at the beginning of the year, and 46,676 were received during the year, making a total of 49,490 : 45,318 of these were disposed of, leaving 4,172, or 8·4 per cent., pending at the end of the year; 467 cases included in the balance are reported to have since been disposed of. The number of applications received through Registration Officers is shown below in comparison with that presented direct to Revenue Officers :—

Board's Proceedings No. 212, dated 14th April 1891.

	Number of pending cases at the beginning of the year.	Received during the year.	TOTAL.	Disposed of during the year.	Pending cases.	Percentage of pending cases to the total.
Applications received through Registration Officers	2,814	46,676	49,490	45,318	4,172	8·4
Applications presented direct to Revenue Officers	3,423	85,322	88,745	85,736	3,009	3·4

Paragraph 54.—The total number received through Registration Officers during the year was about 4,000 more than in the previous year, and the steady increase noticed in the last report has thus continued, *vide* the marginal statement. The disposals were not, however, so good as in the previous year, being only 92 per cent. against 95 per cent. in that year. The number of pending cases is largest in South Arcot (1,641 cases or 22·5 per cent.), but the Collector has furnished no explanation on the point. It is impossible that many of them were received during the last quarter of the year. Collectors will be requested to specify the number of such cases in future reports. A similar remark applies to South Canara also. The Collectors of Ganjam, Nellore, Godavari, Nilgiris and Malabar explain that some of the pending cases have since been disposed of, and that as regards the rest information from village officers was awaited. The Collectors of Nellore and Malabar add that the applications were received in the last quarter of the year. In the case of applications received direct by Revenue Officers, the percentage of disposal was as good as in the previous year; in Nilgiris, Madras, and South Canara it was bad in both years. With reference to paragraph 16 of G. O., dated 6th September 1889, No. 759, the number of cases in which the provisions of paragraph 6 of Board's Standing Order No. 20 were put into force during the year was as noted in the margin. In the remaining districts nothing has been done in this direction. The Collectors of North Arcot, Tanjore, and South Canara have explained that strict orders have been issued to the Tahsildars to find out the number of cases of the sort referred to in paragraph 6 of the Standing Order and dispose of them. The Collector of South Canara adds that he gets half-yearly returns of the progress made and reviews them. The attention of other Collectors will be drawn to the matter, but the Board has already ordered in its Proceedings, dated 13th February 1891, No. 97, that action should be taken gradually and not in too wholesale a fashion.

	No.
1885-86	21,806
1886-87	34,701
1887-88	38,805
1888-89	42,914
1889-90	46,676

Godavari	162	Tanjore	16
Cuddapah	62	Trichinopoly	33
Anantapur	2	Madura	2
Bellary	73	Tinnevelly	79
Chingleput	18	Coimbatore	342
North Arcot	4,303	Nilgiris	1
South Canara	474		

No. 81. *Extract from the Proceedings of the Government of Madras,—No. 827 (Revenue), dated the 4th September 1891.*

Paragraph 15.—Application for Transfer of Registry of Holdings.—The steady increase noticed in the previous year's report in the number of these applications received through Registration Officers was maintained during the year under review,* though the percentage of disposal of such applications fell to 92 from 95 in the previous year, due, presumably, to the receipt of a larger proportion of these applications during the last quarter of the year. It is observed that in the margin of paragraph 54 the number of applications received through Registration Officers is given as 46,676 during 1889-90, which appears to be the figure for the Fasli year, as the report of the Inspector General of Registration shows that such applications during the official year amounted to 46,732. In view of the growing popularity of the measure, the Inspector General of Registration has suggested "that registering officers may be authorised to receive applications for transfer of revenue registry even in cases where no documents are brought for registration, subject to the condition that the parties concerned should produce the patta for the land, the registry of which is sought to be transferred." The suggestion has been referred for remarks to the Board of Revenue, which will now be requested to expedite its report.

* Years	Number of applications received through Registration Officers.
1885-86	21,806
1886-87	34,701
1887-88	38,805
1888-89	42,914
1889-90	46,676

No. 82. From the Honorary Secretaries, Sarvajanik Sabha, Poona, to the Secretary to the Government of India,—No. 6, dated Poona, the 17th January 1893.

We have been directed by the Managing Committee of the Poona Sarvajanik Sabha to submit the following observations for the consideration of Government on the Report of the Commission appointed to enquire into the working of the Deccan Agriculturists' Relief Act.

2. The Committee regret that the request contained in their letter to the Local Government, No. 318 of 24th November 1891, to appoint *two* non-official members on the Commission, was not placed by that Government before the Government of India, and that when the Honourable Mr. Nulkar could take no important part in the work of the Commission owing, to serious illness, the Commission did not apply for the assistance of another Native colleague in their deliberations. If the Commission had been assisted by the advice and experience of the Honourable Mr. Nulkar, or, in his absence, of any other competent non-official gentleman acquainted with the habits of the people and able to take part in the work of the Commission, the Committe are of opinion that the Commission would have arrived at quite different conclusions on many of the points discussed in the report. The Committee also noticed with regret that officers having a personal acquaintance with the working of the Act were not more freely consulted by the members of the Commission, the only assistance which the Commission appears to have had from such officers being secured, in a great measure, by examining them along with other witnesses.

3. After a careful perusal of the able and lengthy report of the Commission, the Committee of the Poona Sarvajanik Sabha think that no facts have been elicited in the enquiry which, in their opinion, would justify any change in the views they expressed in their letter No. 317,* dated 30th September 1891 (copy of which is sent herewith), with regard to the Conciliation, Village Munsif, and Village Registration systems, and the advisability of having a special officer to supervise the working of the Relief Act in the districts in which it is at present in operation. On the other hand, there is much in the report of the Commission which goes a great way to support the views held by the committee on these important points, and to which expression was given in the previous letter.

4. The Commission supports the estimate of Mr. Woodburn that the conciliation system saves each Court on an average 50 contested and 175 uncontested cases every year. The Commission has also found that the system places within the reach of a considerable body of persons a cheap mode of obtaining redress, and gives rise to less ill-feeling between the parties than a regular suit; and that debtors are more ready to comply with the terms of these agreements than with the decrees of a Court. The Commissioners are further unwilling to lose any assistance that the people can give in the administration of civil justice. And yet the Commission has recorded that these undisputed advantages are more than balanced by the trouble

*Printed on pages 253—55 of the Selections.

and expense to parties in unsuccessful cases, though it does not appear that there was any complaint on this point made by the people examined as witnesses, and the expense of getting a certificate of the conciliator is but a trifle. Under these circumstances, it is certainly a matter of surprise that the Commission should recommend that Government should subject private settlements so arrived at with the consent of parties to ordinary stamp and revenue laws, and also require parties to pay court-fee charges before they are permitted to execute the same. The Government has, of its own motion, liberally allowed partial or total exemptions from stamp and court-fee charges in agricultural suits with a view to give relief to the poor classes and this liberal policy has given assurance to the public that Government does desire to make money by encouraging litigation, and that it would be only glad if compromises increase. The Committee are therefore of opinion that it would be a most unfortunate reversion of the policy of Government if, as recommended by the Commission, Government now seeks to discourage amicable settlements by levying fees thereon. The Committee arealso surprised to find that any doubts should linger in the mind of the Commission in regard to the possibility of finding out a sufficient number of men qualified to act as conciliators and induce parties to come to an amicable settlement, when the same Commission has expressed its opinion that there are qualified men available to act as Village Munsifs to decide small disputes between parties whose decisions are by law final. Agreements effected by conciliators, on the other hand are never filed, unless notices to show cause why they should not be filed are served on parties thereto, and are liable to be set aside for any good cause by Sub-Judges of their own accord or on the complaint of the parties. A careful perusal of Mr. Evans' report regarding the working of Village Munsifs Courts in the Madras Presidency would show that the settlement of claims by friendly advice is so popular there that many Village Munsifs setttle disputes coming pefore them by informally acting as arbitrators.

5. The Committee are glad that the Commissioners have unanimously pronounced in favour of the Village Munsif system. In the opinion of the Sabha the system is properly made a part of the Deccan Agriculturists' Relief Act, so that the Special Officer supervising the working of the other provisions of the Act can conveniently supervise the work of the Village Courts also.

6. The Committee are of opinion that there is ample evidence in the Report of the Commission to prove the good results of the village registration system. The work of Village Registrars is supervised by an Inspector, the Mamlatdar and Assistant Collector, and the District Collector, and is controlled by the Registrar-General. The trouble and the cost to parties for registering all documents at taluka stations will undoubtedly be greater than under the existing village registration system, and the saving of the cost to Government by making the registration of simple bonds optional would not be much. False recitals of the consideration in the bonds might sometimes occur, but the difficulty of subsequently proving the true consideration would show villagers the folly of joining the creditors in such misstatements, and put them on their guard to see that the consideration was truely set forth in the deeds passed by them. Moreover, the possible danger of a false consideration being entered in deeds exists in any conceivable system of registration, and cannot be prevented by the mere transfer of the work of the Village Registrars to Taluka Registrars. The increase of work at the taluka station again, would leave no time to Taluka Registrars to give the executors of documents the salutary advice and warning which all Village Registrars are at present required to give, and would cause great inconvenience to people coming from distant villages with witnesses to identify them, making it necessary for them to remain at the taluka stalion for several day before their documents could be registered. The Commission has taken no note of the fact noticed by the Government of India that this Presidency is far behind other provinces in respect of the popularity of registration. The appointment of Honorary Registrars from among respectable gentlemen and retired servants of Government will greatly reduce the cost of registration. Until agriculturists become better able to read and write for themselves, the abolition of compulsory registration of simple bonds passed by them will, the Committee think, only open a fresh door to dishonest dealing. The alleged fall in the fees of village registrars is met by a corresponding increase in the fees of Taluka Sub-Registrars, and there is, therefore, not much appreciable loss in the total revenue from registration in the four districts. The Committee are therefore of opinion that the Village Registration system, which has checked the fabrication of false documents, and which furnishes reliable statistics of the transactions of agriculturists, should not be dispensed with.

7. The Commission speaks with confidence in paragraph 29 of its Report of the great care and ability with which the power of revision is exercised by the Special Judge, and

remarks that the procedure of revision is simpler than that of appeals; and that at first it possessed certain other advantages. It is therefore strange that the Commission should recommend the abolition of the office of the Special Judge without any enquiry as to whether the work done by that officer can be done without additional assistance by the District Judges in the four districts. The Commission states in paragraph 17 of its report, that it is unable to say what the financial result of the changes recommended by it, if adopted, would be. The District Judges have not much time to supervise the work of Sub-Judges, although it is a part of their duty to do so, and the Committee apprehend that District Judges will not have time attend to the work now done by the Special Judge, and to supervise the work of Conciliators and Village Munsifs. Each of the four District Judges will require the assistance of an Assistant Judge or a first-class Sub-Judge specially for that work, as observed by the Committee in their former communication. Much of the good already achieved by the Act during the last twelve years would disappear if no Special Officer is charged with the duty of supervising its working. Government, it is said, is in favour of extending the Act to the Nasik District, and in that case the services of the Special Officer would be very valuable.

8. The Committee of the Sabha are entirely unable to support the opinion of the Commission that section 525 of the Civil Procedure Code has been abused. Every dispute, after it is compromised, is likely to appear as having never been a dispute, and this fact has led the Commission to doubt the usefulness and value of arbitration awards and conciliation agreements. In India it is the attempt of all true friends of the people, including conciliators and arbitrators, to orally explain the reasons of their opinion to both the contending parties and, if necessary, to modify it in such a way that both the parties may accept it. This procedure preserves a good feeling between the parties, and keeps them well disposed towards the conciliator or arbitrator. It also saves the arbitrator the trouble of writing a judgment and setting forth the reasons which have led him to arrive at it. Mr. Evans' report clearly shows that Village Munsifs are in favour of compromises for the same reason. The Commission, therefore, is not correct in inferring that in the majority of cases there was no dispute between the parties merely because the parties consented to the terms of the award, and that the transaction between the parties or the evidence was not reviewed. The Commission has found that out of 79 awards in six cases only a creditor was making a fresh advance, and in a few only the award was in respect of the value of grain just borrowed. On the amount awarded in their awards by arbitrators, a charge in the form of general stamp revenue required for the bond of the same amount (not exceeding R5) is levied. There is, therefore, no loss to Government, whether the parties prefer to have their settlement of disputes embodied in an award or a fresh bond, so long as the amount thereof does not exceed R1,000. The Commission was not called upon to review the working of the arbitration system provided for in the Civil Procedure Code, and its remarks, therefore, in reference to section 525 thereof, may be regarded as irrelevant to the present inquiry. It is not safe, in the opinion of the Committee, to effect a change in the law affecting the whole of British India on account of some points casually noticed by the Commission in the case of only one districts in the Deccan.

9. The Committee of the Sabha entirely concur with the Commission in holding that some causes which prevent the rayats from improving their condition lie entirely outside the administration of justice by the Civil Courts. Only a few days ago the Bombay Government noticed how rigorously forest laws are worked and villagers oppressed to make good trifling, and sometimes imaginary, losses. There is no doubt that, as found by the Commission, the Revenue Officers are not generally disposed to suspend collection of assessment even in cases of unusual failure of crops. The Committee also agree with the Commission in holding that dates for the realisation of the assessment should be so fixed that farmers may be able to pay it by selling part of their own produce, and not be compelled to borrow money on exorbitant terms for the purpose of paying it. There is no reason why agriculturists in Government villages should not be as well off as those in Inam Villages, provided Government shows the same leniency in collecting revenue from Khalsa villages as Inamdars show in Inam villages. It has been properly observed by one of the Commissioners that, among the loans contracted by the Deccan raiyat, those resorted to for escaping the penalty of eviction for arrears of revenue are burdened with the most ruinous rates of interest and discount on sales of crops to the money-lender. The Committee, therefore, would respectfully request Government to adopt, at an early date, such measures as would adequately relieve agriculturists of the necessity of resorting to money-lenders for payment of Government assessment. The Committee have drawn the attention of Government on other occasions to the rigidity of

the revenue system prevailing in this Presidency. It has also been pointed out before by both the Deccan Raiyat's Commission and the Famine Commission. The Committee therefore trust that Government will be pleased to see its way at an early date to afford the necessary relief to the poor and indebted raiyats of the Deccan.

10. The changes suggested by the Commission in the provisions of the Deccan Agriculturists' Relief Act, other than those noticed above, do not seem to be suggested on the strength of the evidence taken by the Commission while on tour in the four districts. The statements of witnesses examined by the Commission in Póona are not appended to the Report, and the Committee of the Sabha are not, therefore, in a position to say how far these suggestions are in accord with the views of the public in the matter.

Office Memorandum from the Secretary to the Government of India, Revenue and Agricultural Department, to the Home Department No. $\frac{2831}{1856}$, dated Calcutta, the 22nd November 1893. No. 83.

In Office Memorandum No. 1258, dated 26th September 1892, received from Home Department, this Department was requested to take under consideration the subject-matter of Part III of the Report on the Deccan Agriculturists' Relief Act.

The subjects dealt with in Part III are :—

(1) the desirability of more suspensions and remissions of revenue;

(2) the dates of payments of instalments;

(3) the desirability of a record of rights;

(4) takavi loans;

(5) restrictions on full right of transfer, *e.g.*—

(i) absolute prohibition of transfer;

(ii) transfer on sanction only;

(iii) re-assessment after transfer;

(iv) purchase by Government;

(v) protection of tenants;

(vi) restriction of powers of mortgagees.

The Bombay Government has been addressed on subjects 2 and 3, and copies of the letters are appended.

The most important of the subjects in the list is that of restricting the right of transfer. It is a question which has been raised in the Central Provinces, the Punjab, and recently in Bengal, and has been the subject of considerable correspondence. The Secretary of State has therefore been asked to sanction a special enquiry into questions connected with the transfer of proprietary right, and the undersigned is directed to state, for the information of the Home Department, that, until His Lordship's reply is received, it is proposed to defer the further consideration of any of the matters dealt with in Part III of the Deccan Report. If the special enquiry is sanctioned by the Secretary of State, the Secretary in this Department will be associated with it, and the enquiry will include all the questions relating to land-revenue administration which are brought forward in the Report of the Deccan Commissioners.

From the Under Secretary to the Government of India, Revenue and Agricultural Department, to the Secretary to the Government of Bombay, No. 1297, dated the 2nd June 1893. No. 84.

With reference to paragraph 22 of Mr. Lee-Warner's letter No. 1477, dated 8th March 1893, I am directed to say that the Government of India agree with the Government of Bombay in considering the existing rules for the fixing of dates for instalments of revenue to be adequate. As the Collectors are already empowered to alter unsuitable dates for instalments, no amendment of the present instructions appears necessary.

2. It seems, however, desirable that the Collectors of the Deccan districts be called on either to show that the dates, as now fixed, do not require any revision, or to make such revision of the dates as, after consideration of the remarks made by the Deccan Agriculturists' Relief Act Commission, they may consider expedient. I am to request that when the dates have been subjected to examination and, if necessary, to revision, a report on the action taken may be submitted to this Government.

No. 85. From the Secretary to the Government of India, Revenue and Agricultural Department, to the Secretary to the Government of Bombay, No. 1325, dated the 5th June 1893.

With reference to paragraph 23 of your letter No. 1477, dated 8th March 1893, addressed to the Home Department, and in connection with paragraph 4 of this Department's letter No. 3513—41, dated 12th December 1892, the Government of India would be glad to see the reports called for in Bombay Government Resolutions No. 5785, dated 15th July 1892, and No. 1708, dated 7th March 1893, and to be informed of any action which the Government of Bombay, in the Revenue Department, intend to take on them.

No. 86. From C. J. Lyall, Esq., C.S.I., C.I.E., Secretary to the Government of India, to the Secretary to the Government of Bombay, Judicial Department, No. 198, dated Calcutta, the 21st February 1894.

I am directed to acknowledge the receipt of the letter from the Government of Bombay, No. 1477, dated the 8th March 1893, on the subject of the proposed amendment of the Deccan Agriculturists' Relief Act, 1879.

2. In reply I am to say that the Governor General in Council has given careful considera tion to the recommendations contained in the Report of the Commission appointed to enquire into the working of the Act, and to the views set forth in Mr. Lee-Warner's letter. The Government of India concur generally in the conclusions arrived at by the Government of Bombay upon this important subject, and a Bill to give effect to the necessary amendments in the Act will be introduced in the Council of the Governor General for making Laws and Regulations. In the meantime, there are two matters upon which the Governor General in Council will be glad to receive a further expression of opinion by His Excellency the Governor in Council.

3. Clause 2 of section 7 of the Act provides that in every suit under Chapter II the Court shall examine the defendant as a witness unless, for reasons to be recorded in writing, it deems it unnecessary to do so. The Commission recommended that this clause should be made applicable to agriculturists' suits generally, not merely to those under Chapter II, and that the expense of enforcing the attendance of the defendant should not, as at present, be thrown upon the plaintiff, if the defendant fails to obey the first summons. The Government of Bombay have accepted both these recommendations. The Commission further stated their opinion that where the provisions of the Act are applied, the examination of the defendant is necessary, and there should, as far as possible, be no discretion left to the Court in the matter. They would seem to hold that the discretion now given by section 7 to abstain, for reasons to be recorded in writing, from summoning the defendant, is too wide. In this opinion the Government of India are disposed to agree. If there were some efficient way of satisfying the Court that the defendant had exercised an intelligent option as to defending the suit, there might be no objection on this account to the clause as it stands, but it seems to the Government of India that such an option cannot be assured unless the defendant appears. After his first appearance the Court might be allowed to exercise its discretion as regards the further compulsory attendance of the defendant. I am to enquire whether, in the opinion of the Government of Bombay, some such limitation should not be placed upon the discretion now allowed by the Act to the Court in this matter.

4. The Commission have condemned the system of registration by Village Registrars, which is said to have failed because the agency employed has proved corrupt or incompetent. The Government of India, however, observe that the Government of Bombay are in favour of retaining the system, which, if it can be rendered efficient, ought to provide a very desirable safeguard against fraud and mistake. In paragraph 30 of his letter* No. 402, dated the 18th October 1892, the Honourable Mr. Ranade has suggested that if the Village Registrars were placed directly under the supervision of Mamlatdars and Subordinate Judges, many of the complaints now heard concerning them would disappear. This appears to the Government of India to be a good suggestion, and I am accordingly to say that they will be glad to learn whether His Excellency the Governor in Council would be prepared to support an amendment of section 61 of the Act, so as to remove the Village Registrars from the control of the Inspector General of Registration and to place them directly under the control of the district officers, or at least to admit of their inspection by district officers.

5. I am to ask for an early reply to this reference.

No. 87. Office Memorandum from C. J. Lyall, Esq., C.S.I., C.I.E., Secretary to the Government of India, Home Department, to the Revenue and Agricultural Department, No. 199, dated Calcutta, the 21st February 1894.

With reference to the correspondence ending with the endorsement from the Revenue and Agricultural Department, No. $\frac{963}{68}$, dated the 1st May 1893, the undersigned is directed to say

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* Printed on pages 302 to 327 of the Selections.

that the question of undertaking legislation on the main lines of the Deccan Agriculturists' Relief Act, 1879, for the protection of agriculturists in parts of British India other than the Presidency of Bombay will be considered in this Department. Such legislation, however, will only partially meet the difficulties connected with the general problem of agricultural indebtedness, for which remedies of an entirely different kind seem to be indispensable both for the Deccan and elsewhere in India. These appear to fall under three principal heads, namely:—

(1) the further extension of the system of advances to cultivators;

(2) the introduction of a greater element of elasticity into the revenue system; and

(3) measures for restricting the right of land transfer.

The undersigned is to request that these matters may be further considered in the Revenue and Agricultural Department.

Office Memorandum from C. J. LYALL, Esq., C.S.I., C.I.E., Secretary to the Government of India, Home Department, to the Legislative Department,—No. 280, dated Calcutta, the 15th March 1894. No. 88.

The undersigned is directed to forward copies of the papers entered in the enclosed list on the subject of certain amendments proposed in the Deccan Agriculturists' Relief Act, 1879, and to say that, after considering the recommendations of the Commission appointed to enquire into the working of that Act and the views of the Government of Bombay thereon, the Governor General in Council is of opinion that the law should be amended on the lines indicated below.

2. Section 1 should be modified so as to admit of the extension of the Act wholly or in part to any *part* or *parts* of any district or districts in the Presidency of Bombay other than the districts of Puna, Satara, Sholapur and Ahmadnagar.

3. The additions and alterations in section 2, which are suggested in the concluding portion of paragraph 6 of the letter from the Government of Bombay, No. 1477 (Judicial), dated the 8th March 1893, should be carried out, namely,—

(1) the definition of "agriculturist" should be amended so as to exclude an inamdar who, not cultivating his lands himself, derives his income from rents received from his tenants;

(2) the words "members of his family" should be added to qualify the word "tenants" in the first clause of the section as amended by Act XXII of 1882; and

(3) it should be made clear that parties hereafter seeking the benefits of the Act an agriculturists should have acquired that status at the date of the contract in accordance with the definition then in force.

4. Subject to consideration by the Select Committee, the proposal made in paragraph 10 of the above-mentioned letter is accepted, namely, to add to section 13 a provision upholding agreements to take profits in lieu of interest and the assessment charges, where the Court is satisfied that the bond was passed for the principal sum stated as consideration therein, and the mortgagee has been placed in actual possession of the property and cultivates it himself or by a tenant other than the mortgagor.

5. The principles of section 14, which regulates the award of interest in suits in which an account is taken under section 13, should be extended to all suits under the Act.

6. With reference to the recommendation made by the Commission and accepted by the Government of Bombay, that an addition should be made to sub-section (3) of section 15 D so as to interpose a reasonable interval between the delivery of judgment and the signing of a decree for foreclosure for the purpose of enabling the judgment-creditor to make an attempt to raise the money, it appears to this Department that the requirements of the case would be sufficiently met if a decree for foreclosure or redemption always named a future day—to be fixed at a reasonable time from the date on which the amount was certified—for the payment of the money. A provision to this effect might be inserted in the Act.

7. The periods of limitation provided by section 72 should stand as at present in the four districts mentioned in section 1; but in cases where the Act is extended to any area outside those districts, it should be provided that the ordinary law of limitation should be retained.

8. The undermentioned sections of the Act should be repealed :—

Section 8 (Written statements).

Section 9 (Record of evidence).

Section 15 (Reference to arbitration in certain cases).

Section 19 (Power to discharge judgment-debtor).

9. The opportunity should also be taken to insert a provision in the Act empowering Courts to take cognizance of payments made out of Court even though not certified under section 258 of the Code of Civil Procedure.

10. The undersigned is to request that the necessary steps may be taken by the Legislative Department for the preparation and introduction in the Council of the Governor General making Laws and Regulations of a Bill to give effect to the above proposals.

11. A further communication will be made on receipt of a reply from the Government of Bombay to whom a reference has been made on the following points :—

(1) whether it is not desirable to limit the discretion now given to the Court by the second clause of section 7 to dispense with the appearance of the defendant, and

(2) whether section 61 should not be amended so as to admit of the inspection of village-registration offices by district officers.

12. The question of making the amendment proposed by the Commission in the second clause of section 7 with the object of exempting the plaintiff from the payment of the expense of enforcing the appearance of the defendant, in the event of failure on the part of the latter to obey the first summons should be left for settlement in Select Committee.

LIST OF ENCLOSURES.

1. Home Department, Judicial A. Proceedings for December 1891, Nos. 234—300.
2. Report of the Commission appointed to enquire into the working of the Deccan Agriculturists' Relief Act.
3. Letter from the Government of Bombay, No. 1477, dated the 8th March 1893, with enclosures.

No. 89. Despatch from the Government of India, Legislative Department, to the Right Honourable H. H. FOWLER, Her Majesty's Secretary of State for India,—No. 21, dated Simla, the 2nd May 1894.

With reference to the correspondence ending with the Despatch of Lord Lansdowne's Government, No. 344* (Financial), dated the 28th December 1892, we have the honour to forward a copy of the Report of the Commission appointed to enquire into the working of the Deccan Agriculturists' Relief Act, 1879, together with a copy of a letter (with its enclosures) from the Government of Bombay conveying an expression of the views of that Government and of the officers and Departments consulted on the recommendations of the Commission. The circumstances which led to the appointment of the Commission and the scope of their enquiry are explained in the Resolution of the Government of India, dated the 20th November 1891, a copy of which formed part of the enclosures of the Despatch to the India Office, No. 318 (Financial), dated the 2nd December 1891.

2. The Commission on considering the various provisions of Act XVII of 1879 with a view to determining not merely how far they have approved themselves by experience in the Deccan, but how far they are capable of extension to other provinces, recommended that the Act, when amended in certain respects, should be retained in the Deccan, and should be made applicable to other places where the problem of agricultural indebtedness has presented itself. A summary of the amendments recommended is given in paragraph 77 of the Report. The following are the principal of these recommendation taken in order:—That the classification of suits should be revised, suits in which non-agriculturists alone are concerned being out of place in the Act (section 3); that the summons in a case under Chapter II should not be for final disposal of the suit in every case in which it seems to the Court possible to dispose of the suit at first hearing, but that the appearance of the defendant should be obligatory in all cases (section 7); that the system of revision should be replaced by the ordinary law of appeal (sections 10 and 33); that the enquiry into the history of transactions with agriculturists' debtors should be confined to facts and not based on assumptions (section 12); that the provisions of (section 13, which relate to the setting aside, with retrospective effect, of agreement to take the profits of mortgaged property without an account in lieu of interest, should be repealed; that reasonable interest should be allowed in every case where the sum decreed is payable in instalments, and that Courts should be empowered to vary instalments according to the varying circumstances of the judgment-debtor as ascertained after due examination (sections 16 to 18 and 20); that the amount of standing crop which is liable to attachment should be limited to one-half (section 22); that certain amendments

* Not printed in the Selections.

should be made in the provisions of Chapter IV, which relate to insolvency; that Village Munsifs (Chapter V) should be constituted under a separate Act; that if conciliation (Chapter VI) is retained, it should be provided for in a separate Act; that the system of registration by Village Registrars (Chapter VIII) should be abolished; that the law of limitation contained in section 72 should be modified by prescribing a period of three years for simple money or shop debts, as under the general law, and six years for suits on bonds or on account stated; and that the provisions of section 73, under which the decision of the Court of First Instance that any person is or is not an agriculturist is final, should be repealed.

3. The Government of Bombay are not unanimous as to the effect of the provisions of Act XVII of 1879 or in regard to the amendments recommended by the Commission. The Governor in Council is, however, agreed that as the special legislation has now been in force for more than fourteen years, it would be undesirable to alter the law except in those particulars in which experience has shown a necessity for amendment. In this conclusion we concur, and we think that the main recommendation of the Local Government, that the Act should remain in force substantially as at present in the four districts to which it now applies, must be accepted. As to most of the other recommendations, we are in agreement with the majority of the Government of Bombay. In regard to the retention (1) of a system of revision for the correction of erroneous judgments instead of the ordinary remedy by appeal, and (2) of the Special Judge to carry out that system, the views of the Commission that appeals are preferable to revision and that the Special Judge is not required are no doubt entitled to consideration. But on both points there is practical concurrence between the Government of Bombay, the Judges of the Bombay High Court, and the District Officers who have been consulted on the suggestions made by the Commission; and the unanimous opinion on this subject of the authorities immediately responsible for the administration of the law appears on the whole to outweigh the views of the Commission. It is accordingly not proposed to make any change in the existing system of revision or in the special agency maintained under the Act.

4. In regard to the other important recommendations for the amendment of the Act discussed by the Commission and the Local Government, we have arrived at the following conclusion:—That section 1 should be amended so as to admit of the extension of the Act to any part or parts of a district other than the four to which it now applies; that the previous sanction of the Governor General in Council to the extension of the Act should continue to be required, although the Government of Bombay have recommended that this provision be repealed; that the definition of agriculturist in section 2 should be amended as proposed by the Local Government; that the Act should not be restricted to agriculturists' suits only in the area to which it now applies, nor, if it is extended to other districts in the Bombay Presidency, should it be limited to agriculturists in those districts (section 3); that in cases under Chapter II summons should be for final disposal as at present (section 7); that the law as to the investigation of the history of transactions with agriculturist-debtors should remain as it is (section 12); that the principle of section 13 should also be affirmed, with the addition of a proviso as proposed by the Government of Bombay, upholding agreements to take profits in lieu of interest and the assessment charges (subject to consideration by Select Committee); that section 15, which provides for a reference to arbitration in certain cases, and section 19 which gives power to discharge the judgment-debtor, should be repealed as they have been practically inoperative; that for the reasons given by the Local Government the provisions as to instalments should not be altered (sections 16 to 18 and 20); that, in view of the practical difficulties brought to notice, it is inexpedient to limit the liability of standing crops to attachment to one-half (section 22); that Chapters IV (Insolvency), V (Village Munsifs), and VI Conciliation), for the amendment of which the Government of Bombay do not press, should be retained as they stand at present; that the periods of limitation provided by section 72 should be maintained in the localities where the Act is in force, but in cases where it is extended to a new area, the ordinary law should be retained; and that it is desirable to repeal section 73, under which the decision of the Court of First Instance as to the status of the defendant as an agriculturist or otherwise is final, and to leave the matter open to revision like any other finding of fact.

Upon two points we have asked for a further expression of opinion from the Government of Bombay. We are inclined to agree with the Commission that the attendance of the defendant, in the first instance at least, should always be compulsory (section 7); and we think that village registrars might be much improved if the Honourable Mr. Ranade's suggestion to place them under the district officers were adopted. We have expressed our views to the Governor in Council for consideration.

5. A Bill has been introduced in our Legislative Council for the purpose of giving effect to such of the above proposals as involve an amendment in the law, and also for carrying out certain minor alterations in the Act, and a copy is enclosed for your information, together with copy of the Statement of Objects and Reasons and of an Extract from the Abstract of Proceedings of the meeting of the Council held on the 29th March, at which the Bill was introduced.

6. The question of undertaking legislation on the main lines of Deccan Agriculturists' Relief Act for the protection of agriculturists in other parts of British India will be separately considered by us, and in this connexion we may invite your attention to the proposals to amend Act XXVIII of 1855 (an Act for the repeal of the usury laws) and the Indian Contract and Evidence Acts, 1872, which were made in paragraphs 36 and 37 of Home Department Resolution No. $\frac{17 \text{ Judicial}}{1497-1502}$, dated the 20th November 1891, and have been accepted by the Commission and the Government of Bombay. Such legislation, however, will in our opinion only partially meet the difficulties connected with the general problem of agricultural indebtedness for which remedies of an entirely different kind seem to be indispensable. Among these we are disposed to include measures for further restricting the right of land transfer. But this part of the subject will be carefully considered in our Revenue and Agricultural Department, and we will address you separately concerning it when we have fuller information before us.

7. We would add that the conclusions which have been stated in the preceding paragraph of this Despatch were arrived at before His Excellency the Marquis of Lansdowne had given over charge of his office.

We have, etc.,"

ELGIN.
GEO. S. WHITE.
ALEX. EDW. MILLER.
H. BRACKENBURY.
C. B. PRITCHARD.
J. WESTLAND.
A. P. MacDONNELL.

No. 90. From C. J. LYALL, Esq., C.S.I., C.I.E., Secretary to the Government of India, to J. W. NEILL, Esq., care of India Office, H. F. EVANS, Esq., Commissioner, Benares Division, S. HAMMICK, Esq., District and Sessions Judge, Ahmednagar, F. S. P. LELY, Esq., Collector and Magistrate, Surat, Nos. 513—516, dated Simla, the 16th May 1894.

I am directed to forward, for your use, a copy of the Report of the Commission appointed to enquire into the working of the Deccan Agriculturists' Relief Act, and to convey to you the acknowledgments of the Governor General in Council for the services rendered by you as $\frac{\text{President}}{\text{a Member.}}$ of that Commission.

No. 91. From C. J. LYALL. Esq., C.S.I., C.I.E., Secretary to the Government of India, to D. C. J. IBBETSON, Esq., Officiating Commissioner and Superintendent, Jullunder Division, No. 517, dated Simla, the 16th May 1894.

I am directed to convey to you the acknowledgments of the Governor General in Council for the services rendered by you as a member of the Commission appointed to inquire into the working of the Deccan Agriculturists Relief Act.

No. 92. From the Honourable Mr. W. LEE-WARNER, C.S.I., Secretary to the Government of Bombay, Judicial Department, to the Secretary to the Government of India, No. 4617, dated Bombay Castle, the 2nd July 1894.

I am directed to reply to your letter No. 198, dated the 21st of February 1894, relative to two matters connected with the Deccan Agriculturists' Relief Acts upon which a further expression of the views of this Government was sought.

2. The first matter concerns clause 2 of section 7 of the Act. You remark that the Commission "stated their opinion that, where the provisions of the Act are applied, the examination of the defendant is necessary, and there should, as far as possible, be no discretion left to the Court in the matter. They would seem to hold that the discretion now given by section 7 to abstain, for reasons to be recorded in writing, from summoning the defendant is too wide. In this opinion the Government of India are disposed to agree." I am to state that the Governor in Council had not read the passage of section 32 of the report to which you refer

in the sense attributed to it in your letter. The language used by the Secretary to the Commission is perhaps ambiguous, but Mr. Hammick, a Member of the Commission, remarks as follows in his letter No. 819, dated March 19th, 1894:—

"I have the honour to observe that the discretion, which, in the opinion of the Commission, was too wide, is not the discretion allowed by section 7, clause 2, of the Act, but that allowed by section 66 of the Civil Procedure Code. The Deccan Agriculturists' Relief Act contemplates that as a matter of course the defendant shall be examined unless the Subordinate Judge, for reasons to be recorded in writing, deems it unnecessary to do so. The Civil Procedure Code takes up the position that the defendant may appear in Court or may stay away as he pleases, but it allows the Court to order him to appear if it sees reason to require his presence. What is the rule under the Deccan Agriculturists' Relief Act is the exception under the Civil Procedure Code. The Commission approved of the provisions of section 7, clause 2, of the Deccan Agriculturists' Relief Act and met the argument of those who said that section 66, Civil Procedure Code, answered the same purpose, by saying that the discretion given by that section is too wide. I myself consider that section 7, clause 2, impresses on the Court with sufficient distinctness the duty of examining the defendant. If the Government of India are of opinion that the discretion is still too wide, it might be narrowed by substituting for the words 'It deems it unnecessary so to do' the words 'It finds it impossible or inadvisable so to do.' The section thus amended would leave no doubt as to the duty of the Court."

The Governor in Council agrees with the great mass of officers consulted that except in the directions indicated in paragraph 7 of my letter No. 1477, dated March 8th, 1893, section 7 of the Act requires no particular change. But inasmuch as this Government will in a few days consider the Bill introduced into the Council last March, I am to add that any further changes in the section, which may then appear desirable, will be duly considered, and reported to the Government of India.

3. The other point raised in your letter refers to registration, and you inquire whether this Government would support an amendment of section 61, so as to remove the Village Registrars from the control of the Inspector General, and place them directly under the control of th District officers, or at least to admit of their inspection by District officers. This Government agrees that if village registration is retained, a closer supervision should be exercised by the District officers over the Village Registrars who are also Village Accountants. It is, however, contended by some authorities that section 61 does not make the Village Registrars members of the Registration Department, or give the Inspector General of Registration authority over them independent of Government, or exclude in any way the right of Government to avail itself of any agency it pleases for the exercise of any executive control it considers necessary over its own subordinates. These authorities object to any amendment of the law which will stand as an admission that Government, under sections 55 and 63 of the Act, cannot now bring the Village Registrars under any control that is desirable. On the other hand, it is urged that the law would not have expressed so pointedly in section 61 the subordination of the Village Registrars to the Inspector General of Registration without intending to direct the control of Government over these subordinates into that channel.

4. This matter will, however, be considered in further detail in dealing with the Bill itself, and I am here only to observe that this Government is in favour of the view contained in the last ten words of paragraph 4 of your letter if it should be held that legislation is needed for the purpose. The Governor in Council desires to retain the technical knowledge and supervision of the Inspector General of Registration, and to make full use of his powers to bring these subordinates under the close control and vigilance of the District and Taluka officer.

5. In conclusion, I am to observe that the views of this Government upon the Bill itself will shortly be communicated to the Government of India, and I am to inquire whether steps are being taken to carry out the important suggestions made by the Commission for extending some of the more valuable provisions of the Deccan Relief Act to transactions outside the four districts and altering the ordinary law as proposed.

G. I. C. P. O.—No. 327 H. D.—15-3-97.—530.—W. B. G.

SELECTIONS

FROM THE

RECORDS OF THE GOVERNMENT OF INDIA,

HOME DEPARTMENT.

No. CCCXLII.

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